

1 Daniel H. Qualls (Bar # 109036)
2 Robin G. Workman (Bar # 145810)
3 Aviva N. Roller (Bar # 245415)
4 **QUALLS & WORKMAN, L.L.P.**
244 California Street, Suite 410
San Francisco, CA 94111
Telephone: (415) 782-3660

5 **UNITED EMPLOYEES LAW GROUP**
6 Walter Haines, Esq. (State Bar # 71075)
7 65 Pine Ave, #312
8 Long Beach, CA 90802
9 Telephone: (562) 256-1047
10 Facsimile: (562) 256-1006

11 *Attorneys for Plaintiff Barbara Glasper, and*
12 *Valentino Raboteaux, on behalf of themselves*
13 *and all others similarly situated*

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SAN FRANCISCO

16 BARBARA GLASPER, and VALENTINO
17 RABOTEAUX on behalf of themselves and all
18 others similarly situated,
19 Plaintiffs,
20 vs.
21 VEOLIA TRANSPORTATION SERVICES,
22 INC. and Does 1 through 50, inclusive,
23 Defendant.

No. CGC-09-484742
Unlimited Civil Case
The Amount Demanded Exceeds \$25,000
**FIRST AMENDED CLASS ACTION
COMPLAINT**

24 Plaintiffs, Barbara Glasper and Valentino Raboteaux ("Plaintiffs"), by their attorneys,
25 brings this action on behalf of themselves, all other persons similarly situated and the general
26 public, and on information and belief, except those allegations that pertain to the named Plaintiffs
27 (that are alleged on personal knowledge), hereby allege as follows:

28 1. Defendant Veolia Transportation Services, Inc., is a corporation doing business
throughout the State of California.

2. This action alleges that Veolia Transportation Services, Inc. hereinafter referred to
as "Veolia" and/or Defendant): (1) required Plaintiff Glasper and those similarly situated to work

**ENDORSED
FILED**
San Francisco County Superior Court

MAR 10 2009

GORDON PARK-LI, Clerk
BY: CAROLYN BALISTRERI
Deputy Clerk

1 hours in excess of 8 hours in one day or 40 hours in one week and failed to compensate Plaintiff
2 Glasper and those similarly situated for this time. As Plaintiff Glasper and those similarly situated
3 routinely worked overtime, Defendant failed to pay Plaintiff Glasper and those similarly situated
4 employees overtime in violation of California Labor Code §1194 and applicable Industrial
5 Welfare Commission Orders; and, (2) failed to reimburse Plaintiffs and those similarly situated for
6 the purchase and maintenance of the uniforms Defendant required Plaintiffs and those similarly
7 situated to wear while on the job in violation of California Labor Code section 2802 and
8 applicable Industrial Welfare Commission Orders.

9 3. This action seeks relief for unremedied violations of California law, including, inter
10 alia; damages, and/or restitution, as appropriate, to members of the Class, and to victims of the
11 practices at issue, who have not received compensation and/or overtime pay for time or overtime
12 worked, who have not received reimbursement for the purchase and maintenance of uniforms
13 provided and required by Defendant and who failed to receive accurate wage statements.

14 4. Plaintiffs are adequate and proper class representatives. Plaintiffs bring this action
15 in their individual capacity, on behalf of all others similarly situated, and, pursuant to California
16 Business & Professions Code §17204, on behalf of the general public. Defendant initially
17 employed Glasper as a bus driver in December of 2004. Defendant subsequently employed
18 Glasper in a position titled "Supervisor." Defendant employed Glasper from December of 2004 to
19 March of 2006. Defendant reemployed Glasper in July of 2006 throughout 2008. When Plaintiff
20 Glasper began working in the position titled "Supervisor," and throughout 2005, Defendant
21 classified the job as exempt. Although Defendant required Plaintiff Glasper and those similarly
22 situated to work in excess of 8 hours in one day and 40 hours in one week, Defendant failed to pay
23 Plaintiff Glasper and those similarly situated for this time and to pay overtime arising from this
24 additional work time during this time period. In late 2005, Defendant reclassified the position and
25 only then began to pay Plaintiff Glasper and those similarly situated for overtime worked.
26 Defendant employed Plaintiff Raboteaux as a bus driver from November, 2007, to December,
27 2007. Defendant failed to provide Plaintiffs and all others similarly situated compensation for
28 purchasing and maintaining the uniforms Defendant required Plaintiffs and all others similarly

1 situated to wear and failed to provide Plaintiffs and all others similarly situated with accurate
2 statement of wages.

3 5. Defendant is, and at all relevant times was, doing business in the State of
4 California and an employer under applicable Industrial Welfare Commission Orders.

5 6. The names and capacities of Defendants sued herein under California Code of
6 Civil Procedure §474 as Does 1 through 50, inclusive, are presently not known to Plaintiffs, who
7 therefore sues these Defendants by such fictitious names. Plaintiffs will seek to amend this
8 Complaint and include these Doe Defendants' names and capacities when they are ascertained.
9 Each of the fictitiously named Defendants is responsible in some manner for the conduct alleged
10 herein and for the injuries suffered by Plaintiffs, the members of the Class and the general public.

11 7. At all times mentioned in the causes of action alleged herein, each and every
12 Defendant was an agent and/or employee of each and every other Defendant. In doing the things
13 alleged in the causes of action stated herein, each and every Defendant was acting within the
14 course and scope of this agency or employment and was acting with the consent, permission and
15 authorization of each of the remaining Defendants. All actions of each Defendant as alleged in the
16 causes of action stated herein were ratified and approved by every other Defendant or their
17 officers or managing agents.

18 8. This action seeks relief on behalf of two classes of Defendant's employees in the
19 employ of Defendant in California in the four years preceding the filing date of this lawsuit and
20 the present comprised of the following:

- 21 (1) All persons employed by Defendant in the position titled "Supervisor" in
22 California from January of 2005 until late 2005 when Defendant
reclassified the position as non-exempt ("Class A"); and,
23 (2) All persons employed by Defendant who purchased and/or maintained
24 uniforms Defendant required employees to wear during employment
("Class B").

25 9. Both Class A and Class B are sufficiently numerous, since both are estimated to
26 include between 100 and 1000 or more, respectively, Defendant's employees geographically
27 dispersed throughout California, the joinder of whom in one action is impracticable, and the
28 disposition of whose claims in a class action will provide substantial benefits to both the parties

1 and the Court.

2 10. There is a well-defined community of interest in the questions of law and fact
3 involved affecting the parties to be represented. The questions of law and fact common to both
4 Class A and Class B predominate over questions that may affect individual class members,
5 including but not limited to the following:

- 6 (a) Whether Defendant implemented and engaged in a systematic practice
7 whereby it unlawfully failed to pay overtime pay to Class A for time
8 worked in excess of 8 hours in one day and 40 hours in one week;
- 9 (b) Whether Defendant implemented and engaged in a systematic practice
10 whereby it unlawfully failed to compensate Class B for the purchase and
11 maintenance of uniforms Defendant required the employees to wear during
12 their employment;
- 13 (c) Whether Defendants implemented and engaged in a systematic practice
14 whereby they failed to provide accurate wage statements; and,
- 15 (d) Whether the systematic acts and practices of Defendants as alleged herein
16 violated, inter alia, applicable provisions of the California Labor Code,
17 including but not limited to sections 201, 202, 203, 204, 510, 1194, 2698,
18 2802, applicable Industrial Welfare Commission Orders, and California
19 Business & Professions Code § 17200, et seq.

20 11. Because Plaintiff Glesper worked hours in excess of 8 hours in one day and 40
21 hours in one week, as Defendant instructed her, and Defendant did not compensate her for this
22 time, and Defendant required Plaintiffs Glesper and Raboteaux to purchase and/or maintain the
23 uniforms Defendant provided and required them to wear during their employment, and failed to
24 provide timely and accurate wage statements, Plaintiffs asserts claims typical of the claims of the
25 both Class A and Class B.

26 12. Plaintiffs will fairly and adequately represent and protect the interests of both Class
27 A and Class B in that Plaintiffs have no disabling conflict of interest that would be antagonistic to
28 those of the other members of the Classes. Plaintiffs retained counsel that are competent and

1 experienced in the prosecution of class action wage and hour violations.

2 13. Plaintiffs and the members of both Class A and Class B all similarly suffered
3 irreparable harm and damages as a result of Defendant's unlawful and wrongful conduct,
4 including but not limited to Defendant's systematic failure to pay for overtime wages, and
5 systematic failure to provide compensation for the purchase and/or maintenance of uniforms it
6 requires its employees to wear at all times makes class treatment especially appropriate. Because
7 the hours worked by Defendant's employees and class members follow common patterns, and the
8 uniform requirements applied equally to all employees, this action will provide substantial benefits
9 to the general public and those in the Classes. Absent this action, Defendant's unlawful conduct
10 will continue unremedied and uncorrected.

11 14. The labor practices and all other aspects of operation of facilities owned and
12 operated by Defendant is controlled by uniform standards established by Defendant and is
13 monitored closely by the regional and senior management of Defendant.

14 **FIRST CAUSE OF ACTION**

15 **(Failure To Pay Overtime Wages Pursuant to Labor Code Section 1194)**

16 15. Plaintiffs incorporate by reference the allegations contained in paragraphs 1-14 of
17 this Complaint as if fully set forth herein.

18 16. During the relevant period, Defendant required Plaintiff Glasper and the members
19 of Class A to work in excess of 40 hours per week and/or 8 hours per day.

20 17. During the relevant period, both the Labor Code and the pertinent Wage Orders
21 required that all work performed by an employee in excess of 8 hours in any workday, or 40 hours
22 per week be compensated at 1.5 or 2.0 times the employee's regular rate of pay. Defendant failed
23 to compensate Plaintiff Glasper and class members for overtime hours they worked prior to the
24 time that Defendant reclassified the position as an exempt position. As a result, Defendant failed
25 to pay Plaintiff Glasper and the members of Class A earned overtime wages. Plaintiff Glasper and
26 the members of Class A are entitled to recover their unpaid overtime compensation and penalties
27 arising therefrom.

28 18. In failing to properly compensate Plaintiff Glasper and the members of Class A for

1 the overtime they worked as alleged herein, Defendant acted maliciously, oppressively, and
2 despicably, with the wrongful intention of causing injury and hardship to Plaintiff Glasper and the
3 members of Class A by reaping economic gain at Plaintiff Glasper and the members of Class A's
4 expense, in willful and conscious disregard of Plaintiff Glasper and the members of Class A's
5 statutory and regulatory right to overtime compensation.

6 19. Plaintiff Glasper and the other members of Class A are therefore entitled to the
7 relief requested below.

8 **SECOND CAUSE OF ACTION**

9 **(Failure to Reimburse For Purchase And/Or Maintenance of Uniforms**
10 **In Violation Of Labor Code § 2802, Industrial Wage Order No. 9-2001, 8 CCR § 9(A) 11090)**

11 20. Plaintiffs repeat and re-alleges each and every allegation contained in the
12 foregoing paragraphs as if fully set forth herein.

13 21. During all relevant periods, Defendant required Plaintiffs Glasper and Raboteaux
14 and the members of Class B to wear uniforms at all times during their employment. Defendant,
15 however, requires Plaintiffs and the members of Class B to purchase and/or maintain the uniforms.
16 Defendant failed to reimburse Plaintiffs and the members of Class B for either the purchase or the
17 maintenance of the uniforms.

18 22. In failing to reimburse Plaintiffs and the members of Class B for the purchase
19 and/or maintenance of the uniforms, Defendant acted maliciously, oppressively, and despicably,
20 with the wrongful intention of causing injury and hardship to Plaintiffs and class members by
21 reaping economic gain at Plaintiffs' and the members of Class B's expense, in willful and
22 conscious disregard of Plaintiffs' and the members of Class B's statutory and regulatory right to
23 overtime compensation.

24 23. Plaintiffs and the members of Class B are therefore entitled to the relief requested
25 below.

26 ///

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **(Unlawful, Unfair And Fraudulent Business Practices Pursuant to Business and Professions**
3 **Code § 17200, et seq.)**

4 24. Plaintiffs and the members of both Class A and B class incorporate by reference the
5 allegations contained in the foregoing paragraphs of this Complaint as if fully set forth herein.

6 25. Business & Professions Code section 17200, et seq. prohibits acts of unfair
7 competition, that shall mean and include any “unlawful business act or practice.”

8 26. The policies, acts and practices heretofore described were and are an unlawful
9 business act or practice because Defendant’s failure to pay Plaintiff Glasper and the members of
10 Class A for overtime worked and failure to provide them accurate and timely wage statements and
11 failure to reimburse Plaintiffs Glasper and Raboteaux and the members of Class B for the purchase
12 and/or maintenance of the required uniforms Defendant violates applicable Labor Code sections,
13 including but not limited to Labor Code §§ 201, 202, 203, 204, 226, 510, 1194, 2802 applicable
14 Industrial Welfare Commission Wage Orders, the Labor Code Private Attorney General Act of
15 2004, Labor Code Section 2698 et. seq., and other provisions of California common and/or
16 statutory law. Plaintiffs reserve the right to allege additional statutory and common law violations
17 by Defendant. Such conduct is ongoing to this date.

18 27. Business & Professions Code §17200, et seq. also prohibits acts of unfair
19 competition, which shall mean and include any “unfair business act or practice.”

20 28. The policies, acts or practices described herein were and are an unfair business act
21 or practice because any justifications for Defendant’s illegal and wrongful conduct were and are
22 vastly outweighed by the harm such conduct caused Plaintiffs, the members of both Class A and
23 Class B, and the members of the general public. Such conduct is ongoing to this date.

24 29. Plaintiffs and the members of Class A and Class B are therefore entitled to the
25 relief requested below.

26 ///

27 ///

28 ///

1 **FOURTH CAUSE OF ACTION**

2 **(Labor Code Private Attorneys General Act of 2004: Labor Code Sec. 2698)**

3 30. Plaintiff repeats and re-alleges each and every allegation contained in the foregoing
4 paragraphs as if fully set forth herein.

5 31. The policies, acts and practices heretofore described were and are an unlawful
6 business act or practice because Defendant's failure to provide meal period breaks, failure to
7 compensate Plaintiff and those similarly situated for work hours in excess of 8 hours in one day or
8 40 hours in one week, failure to reimburse Plaintiffs and those similarly situated for the purchase
9 and maintenance of the uniforms Defendant required Plaintiffs and those similarly situated to wear
10 while on the job and failure to provide accurate wage statements to Plaintiff and class members
11 violates applicable Labor Code sections and gives rise to statutory penalties as a result of such
12 conduct, including but not limited to penalties as provided by Labor Code §§ 201, 202, 203, 204,
13 510, 1194, 2698, 2802 and 2699.5, and applicable Industrial Welfare Commission Wage Orders.
14 Plaintiff, as an aggrieved employee, hereby seeks recovery of civil penalties as prescribed by the
15 Labor Code Private Attorney General Act of 2004 on behalf of themselves and other current and
16 former employees of Defendant against whom one or more of the violations of the Labor Code
17 was committed.

18 32. On January 30, 2009, Plaintiff gave written notice by certified mail to the
19 California Labor and Workforce Development Agency and Veolia Transportation Services, Inc. of
20 Labor Code violations as prescribed by California Labor Code section 2699.3. Plaintiff has not
21 received written notification by the LWDA of an intention to investigate the allegations set forth
22 in Plaintiff's January 30, 2009, letter or written notice of cure by March 4, 2009, as prescribed by
23 California Labor Code section 2699.3.

24 **PRAYER FOR RELIEF**

25 WHEREFORE Plaintiffs pray for judgment and relief as follows:

26 1. An order certifying that the action may be maintained as a class action;
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 2. Compensatory and statutory damages, penalties and restitution, as appropriate and available, in an amount to be proven at trial based on, inter alia, the unpaid balance of monies Defendant owed;
- 3. For punitive damages as appropriate and available under each cause of action;
- 4. An order enjoining Defendant from pursuing the policies, acts, and practices complained of herein;
- 5. Costs of this suit and attorneys' fees as authorized by Labor Code Section 1194 and 2802;
- 6. Pre- and post-judgment interest;
- 7. For recovery of penalties as provided by the Labor Code Private Attorneys General Act of 2004; and
- 8. Such other and further relief as the Court deems just and proper.

Date: March 9, 2009

QUALLS & WORKMAN, L.L.P.



Daniel H. Qualls
Attorneys for Plaintiffs Barbara Glasper,
Valentino Raboteaux, and all others similarly
situated