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9 Attorneys for Plaintiff Lonneta Williams and
10 Roshon Green, and all others similarly situated

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SACRAMENTO

13 Coordination Proceeding Special Title
14 (Rule 3.550)

) Judicial Council Coordination Proceeding
) No. 4560

15 **YORK CLAIMS SERVICE WAGE
16 AND HOUR CASES**

) **AMENDED CLASS ACTION COMPLAINT**

17 Included Actions:

18 *Johnson, et al. v. York Claims Service, Inc.*

) Superior Court of California, County of
) Sacramento, No. 34-2008-00008447

19 *Williams, et al v. York Claims Service, Inc., et al.*

) Superior Court of California, County of San
) Francisco, No. CGC-08-476427

20 1. This class action lawsuit arises from an ongoing wrongful conduct by Defendant,
21 York Claims Service, Inc., (hereinafter "Defendant"), to deny its employees the overtime benefits
22 due under California's wage and hour laws.

23 2. Defendant York Claims Service, Inc., is a corporation doing business within the
24 State of California with its principal places of business and headquarters in New Jersey.

25 3. This action seeks relief for unremedied violations of California law, including, inter
26 alia; damages, and/or restitution, as appropriate, to members of the Class, and to victims of the
27 practices at issue, who have not been paid the appropriate rate of pay for overtime worked, who
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1 have not received overtime pay for overtime worked, and who have failed to receive accurate
2 wage statements.

3 4. The names and capacities of defendants sued herein under California Code of Civil
4 Procedure §474 as Does 1 through 100, inclusive, are presently not known to Plaintiff, who
5 therefore sues these defendants by such fictitious names. Plaintiffs will seek to amend this
6 Complaint and include these Doe defendants' names and capacities when they are ascertained.
7 Each of the fictitiously named defendants is responsible in some manner for the conduct alleged
8 herein and for the injuries suffered by plaintiffs, the members of the Class and the general public.

9 5. Plaintiffs Lonetta Williams and Roshon Green, on behalf of themselves
10 individually and on behalf of all others similarly situated hereby allege that Defendant misclassifies
11 claims examiners as exempt, in violation of California's wage and hour laws, and thus routinely
12 denies employees like Plaintiffs and the Class their statutorily-mandated rights.

13 6. Ms. Williams, and Ms. Green ("Plaintiffs") sue on behalf of themselves and other
14 similarly situated "claims examiners" who worked for the Defendant. This action claims that
15 Defendant violated the wage and hour provisions of California wage and hour laws by depriving
16 Plaintiffs, as well as others similarly situated to the named Plaintiffs, of their lawful overtime
17 wages.

18 7. For at least four years prior to the filing of this complaint, Defendant willfully
19 committed widespread violations of California labor laws.

20 8. Plaintiffs and the California Class have suffered common financial harm as their
21 employer, has violated and continues to violate (i) multiple provisions of California's wage and
22 hour laws, including California Labor Code §§ 226, 510, 1194, and 2698; (ii) the Unfair
23 Competition Law codified in California Business and Professions Code §§ 17200, et seq.; and (iii)
24 Industrial Welfare Commission Wage Order 4-2001 incorporated into the California Code of
25 Regulations.

26 9. Plaintiff Lonetta Williams is currently employed as a claims examiner. Ms.
27 Williams has been required to work overtime on a routine, daily and weekly basis.
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1 10. Plaintiff Roshon Green is a former employee of Defendant. While Defendant
2 employed Ms. Green as a claims examiner, Defendant required her to work overtime on a routine,
3 daily and weekly basis.

4 11. Claims examiners duties and tasks performed by Williams and Green, respectively,
5 and all others similarly situated, were such that Plaintiffs Williams and Green and class members
6 were non-exempt employees and entitled to overtime compensation. As a result, Defendant paid
7 Plaintiff Williams and Plaintiff Green wages significantly less than required by law. In addition,
8 Defendant failed to provide Williams, Green, and all other similarly situated California employees
9 with accurate statements of wages.

10 12. Defendant is, and at all relevant times was, an employer under applicable
11 California Industrial Welfare Commission Orders. The violations as alleged herein arose in San
12 Francisco County and other California counties.

13 13. This action seeks relief on behalf of a class of persons employed in California by
14 Defendant as a claims examiner for the four year period preceding the filing of this Complaint to
15 the present (the Class).

16 14. The class is sufficiently numerous, since it is estimated to include several hundred
17 or more employees geographically dispersed, the joinder of whom in one action is impracticable,
18 and the disposition of whose claims in a class action will provide substantial benefits to both the
19 parties and the Court.

20 15. There is a well-defined community of interest in the questions of law and fact
21 involved affecting the parties to be represented. The questions of law and fact common to the
22 Class predominate over questions that may affect individual class members, including but not
23 limited to the following:

24 (a) Whether Defendant implemented and engaged in a systematic practice whereby it
25 unlawfully failed to pay overtime;

26 (b) Whether Defendant implemented and engaged in a systematic practice whereby it
27 failed to provide accurate wage statements to California employees;

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1 (c) Whether the systematic acts and practices of Defendant as alleged herein violated,
2 inter alia, applicable provisions of the California Labor Code, including but not limited to, sections
3 226, 512, 1174, 1194 and 2698, and applicable Industrial Welfare Commission Orders, and
4 California Business & Professions Code § 17200, et seq.

5 16. Because Plaintiffs worked overtime on a daily and weekly basis, for which
6 Plaintiffs were not properly compensated, and failed to receive timely and accurate wage
7 statements, Plaintiffs are asserting claims that are typical of the claims of the Class.

8 17. Plaintiffs will fairly and adequately represent and protect the interests of the Class
9 in that they have no disabling conflict of interest that would be antagonistic to those of the other
10 members of the Class. Plaintiffs have retained counsel who are competent and experienced in the
11 prosecution of class action wage and hour violations.

12 18. Because Plaintiffs and the members of the Class have all similarly suffered
13 irreparable harm and damages as a result of Defendant's unlawful and wrongful conduct,
14 including but not limited to Defendant's systematic failure to pay overtime wages, class treatment
15 is especially appropriate. Because the hours worked by Defendant's employees and class
16 members follow common patterns, all of which are reflected in the records possessed by
17 Defendant, this action will provide substantial benefits to both. Absent this action, Defendant's
18 unlawful conduct will continue unremedied and uncorrected.

19 **FIRST CAUSE OF ACTION**

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21 **UNLAWFUL FAILURE TO PAY OVERTIME WAGES**
22 **(LABOR CODE §§ 226,510, 558, 1194 et seq.; WAGE ORDER NO. 4-2001)**

23 19. Plaintiffs repeat and reallege each and every allegation set forth in all of the
24 foregoing paragraphs as if fully set forth herein.

25 20. During all relevant periods, Defendant required Plaintiffs and class members to
26 work shifts in excess of eight hours per day, and to work in excess of forty hours per week.

27 21. During all relevant periods, both the California Labor Code and the pertinent wage
28 orders required that all work performed by an employee in excess of eight hours in any workday,

1 on the seventh day of work in any workweek, or in excess of forty hours in any workweek be
2 compensated at one and one-half times the employee's regular rate of pay. Defendant failed to
3 compensate Plaintiffs and class members for overtime hours they worked in excess of eight hours
4 in any workday, or in excess of forty hours in any workweek, at one and one-half times a rate of
5 pay, based upon their regular rate of pay. As a result, Defendant failed to pay Plaintiffs and class
6 members earned overtime wages and failed to provide Plaintiff and Class members itemized
7 statements as required by California Labor Code Section 226. Plaintiffs and class members are
8 entitled to recover their unpaid overtime compensation and liquidated damages arising therefrom.

9 22. Plaintiffs and the other members of the class members are therefore entitled to the
10 relief requested below.

11 **SECOND CAUSE OF ACTION**

12 **UNFAIR COMPETITION**
13 **(BUS. & PROF. CODE §§ 17200-17208)**

14 23. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing
15 paragraphs as if fully set forth herein.

16 24. Defendant's failure to pay overtime, as alleged above, constitutes unlawful and/or
17 unfair and/or fraudulent activity prohibited by California Business and Professions Code § 17200.

18 25. As a result of its unlawful and/or unfair and/or fraudulent acts, Defendant has
19 reaped and continues to reap unfair benefits and illegal profits at the expense of Plaintiffs and
20 California class members. Defendant should be enjoined from this activity and made to disgorge
21 these ill-gotten gains and restore to Plaintiffs and class members the wrongfully withheld overtime
22 wages, to provide class members restitution for the withholding, and for delay in receiving the
23 overtime wages due, pursuant to Business and Professions Code § 17203.

24 26. Accordingly, Plaintiffs and the Class respectfully request that the Court award
25 judgment and relief in their favor to provide restitution and other types of equitable relief.

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THIRD CAUSE OF ACTION

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

27. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

28. The policies, acts and practices heretofore described were and are an unlawful business act or practice because Defendant's failure to pay non-exempt employees overtime wages violates applicable Labor Code sections and gives rise to statutory penalties as a result of such conduct, including but not limited to penalties as provided by Labor Code §§ 226, 510, 558, 1194, 1198 and 2698, and applicable Industrial Welfare Commission Orders. Plaintiffs, as aggrieved employees, hereby seek recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 on behalf of themselves and other current and former employees of Defendant against whom one or more of the violations of the Labor Code was committed.

29. On July 17, 2008, Plaintiffs gave written notice by certified mail to the California Labor and Workforce Development Agency and York Claims Service, Inc. of Labor Code violations as prescribed by California Labor Code section 2699.3. On August 20, 2008, the LWDA sent Plaintiffs a letter declining to investigate the allegations set forth in Plaintiffs' July 17, 2008, letter or written notice of cure by York as prescribed by California Labor Code section 2699.3.

WHEREFORE Plaintiffs pray for judgment and relief as follows:

1. An order certifying that the action may be maintained as a class action;
2. Compensatory and statutory damages, penalties and restitution, as appropriate and available under each cause of action, in an amount to be proven at trial based, pursuant to statute, including but not limited to, Labor Code §§ 226(b), 512, 558, 1194(a), and common law;
3. For recovery of penalties as provided by the Labor Code Private Attorneys General Act of 2004;
4. An order enjoining Defendant from pursuing the policies, acts, and practices complained of herein;

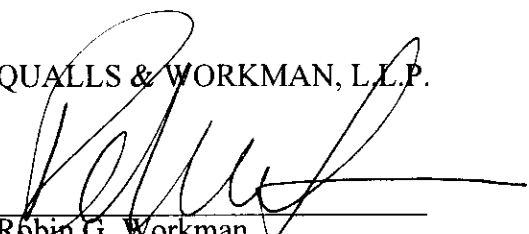
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- 5. Reasonable attorneys' fees pursuant to California Code of Civil Procedure § 1021.5, a Common Fund recovery, Labor Code § 1194(a), and Labor Code § 2699(g)(1);
- 6. Costs of this suit;
- 7. Pre- and post-judgment interest; and
- 8. Such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury.

DATE: October 22, 2009

QUALLS & WORKMAN, L.L.P.

By: _____
Robin G. Workman
Attorneys for Plaintiffs

1 PROOF OF SERVICE

2 I, Cheryl Porter, hereby declare:

3 I am employed in the City and County of San Francisco, California in the office of a
4 member of the bar of this court at whose direction the following service was made. I am over the
5 age of eighteen years and not a party to the within action. My business address is Qualls &
6 Workman, L.L.P., 244 California Street, Suite 410, San Francisco, California.

7 On October 22, 2009, I served the **AMENDED CLASS ACTION COMPLAINT** on the
8 interested parties in this action via mail by placing a true copy thereof, on the above date, enclosed
9 in a sealed envelope following the ordinary business practice of Qualls & Workman, for collection
10 and mailing in the United States mail addressed as set forth below:

11 Craig A. Diamond
12 Diamond Baker, LLP
13 PO Box 1147
14 Cedar Ridge, CA 95924-1147

The Honorable Elena Duarte
Superior Court of California,
County of Sacramento
720 Ninth Street
Sacramento, CA 95814

14 Mark Thierman
15 Thierman Law Firm
16 7287 Lakeside Drive
17 Reno, NV 89511

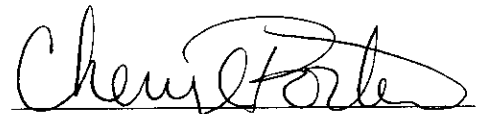
Clerk of the Court
San Francisco Superior Court
400 McAllister Street
San Francisco, CA 94102

16 Judicial Council of California
17 Administrative Office of the Courts
18 Attn: Appellate & Trial Court Judicial
19 Services
20 455 Golden Gate Avenue
21 San Francisco, CA 94102-3660

Clerk of the Court
Superior Court of California,
County of Sacramento
720 Ninth Street
Sacramento, CA 95814

22 I am personally and readily familiar with the business practice of Qualls & Workman for
23 collection and processing of documents for mailing with the U.S. Postal Service, pursuant to
24 which mail placed for collection at designated stations in the ordinary course of business is
25 deposited the same day, proper postage prepaid, with the U.S. Postal Service.

26 I declare under penalty of perjury under the laws of the State of California that the
27 foregoing is true and correct, and that this declaration was executed on October 22, 2009, at San
28 Francisco, California.


Cheryl Porter