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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 JO ANN GUTIERREZ-BEJAR, on behalf of
herself and all other similarly-situated persons,
12
13 Plaintiff,
14
15 v.
16 SOS INTERNATIONAL, LLC, and DOES 1-10
17 Defendant.

Case No.

**CLASS AND COLLECTIVE ACTION
COMPLAINT**

JURY TRIAL REQUESTED

- 1) 29 U.S.C. §206
- 2) 29 U.S.C. §207
- 3) Cal. Labor Code §§210, 218
1194
- 4) Cal. Labor Code §204
- 5) Cal. Labor Code §226
- 6) Cal. Labor Code §§201, 202
203
- 7) Cal. Labor Code §2802
- 8) Cal. Labor Code §§218 & 1194

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19
20 Plaintiff Jo Ann Gutierrez-Bejar, on behalf of herself and others similarly situated
21 (“Plaintiff”), alleges as follows:

22 **NATURE OF THE CLAIMS**

23 1. Plaintiff brings this action, on behalf of herself and on behalf of all other similarly-
24 situated persons, to recover liquidated damages for unpaid wages and overtime under the Fair Labor
25 Standards Act of 1938 ("FLSA"), 29 U.S.C. §201 *et seq.*, and to recover unpaid wages and penalties
26 under the California Labor Code associated with and/or arising from her misclassification as an
27 “independent contractor” and that of the class she seeks to represent.
28

1 2. Plaintiff’s claims under the FLSA are brought as a collective action, pursuant to
2 29 U.S.C. §216(b), on behalf of herself and on behalf of all other similarly-situated persons who
3 were/are employed by Defendant as interpreters in the federal immigration courts within the United
4 States and its territories and districts for the period of December 1, 2015 to the final disposition of
5 this action (herein referred to as the “Class Period”). Plaintiff, and the similarly-situated persons she
6 seeks to represent in the collective action brought pursuant to the FLSA, are herein referred to as the
7 “FLSA Class.”

8 3. The FLSA Class members are similarly situated because they were and are
9 misclassified by Defendant as “independent contractors,” subjected to the same policies, terms and
10 conditions of employment by Defendant, were denied complete and/or prompt payment for hours
11 worked pursuant to a common policy and/or practice of Defendant, and have not been compensated
12 for all hours worked pursuant to a common policy and/or practice of Defendant.

13 4. Plaintiff also brings claims under the California Labor Code on behalf of herself and
14 all others similarly situated, and such claims are brought as a class action pursuant to Federal Rule
15 of Civil Procedure Rule (“FRCP”) 23. Such claims are brought on behalf of all other similarly-
16 situated persons who were/are employed by Defendants as immigration court interpreters within the
17 state of California who were misclassified as “independent contractors” (“California Class”). As
18 such, the “California Class” consists of a smaller group of class members than the FLSA Class, and
19 is a sub-class of the FLSA Class; however the Class Period for the California Class and the FLSA
20 Class is of identical duration.

21 5. The California Class members are similarly situated because they were/are all
22 subjected to the same terms and conditions of employment by Defendant, and to Defendant’s
23 common policy and/or practice of misclassifying them as “independent contractors,” failing to pay
24 them for all hours worked, failing to pay one-and-one-half times their regular rate of pay for daily
25 overtime or weekly overtime, failing to provide complete wage statements, failing to make timely
26 payment of wages, and associated penalties.

27 6. Plaintiff requests a jury to determine questions of fact at trial.
28

JURISDICTION AND VENUE

1
2 7. Pursuant to 28 U.S.C. §§1331 and 1343, the Court has subject matter jurisdiction over
3 this action because this action involves federal questions regarding Plaintiff’s entitlement to full and
4 prompt payment for all hours worked, and for overtime pay for all hours worked exceeding 40 in a
5 workweek pursuant to federal law, the FLSA.

6 8. Pursuant to 28 U.S.C. §1367(a), the Court has supplemental jurisdiction over
7 Plaintiff’s related claims under the California Labor Code.

8 9. This Court has jurisdiction Pursuant to 28 U.S.C. §1332. Plaintiff is a citizen of the
9 State of California and Defendant is a Delaware corporation with its principal place of business in
10 the State of New York. Defendant is neither headquartered, incorporated, or registered in the State
11 of California. The amount in controversy in this action exceeds \$75,000.

12 10. Pursuant to 28 U.S.C. §1391(a), venue is proper in this district because the events or
13 omissions giving rise to this action occurred in the Central District of California, and the County of
14 Los Angeles, California.

15 11. Plaintiff’s claims are properly consolidated as a single action because her claims
16 involve the same defendant, arise from the same nexus of facts and circumstances, during the same
17 period, and involve overlapping issues of fact and law.

THE PARTIES

The Plaintiff

19
20 12. Plaintiff Gutierrez-Bejar lives within the county of Los Angeles, was engaged by
21 Defendant within the County of Los Angeles, and during the period relevant hereto worked for
22 Defendant in the County of Los Angeles.

23 13. Plaintiff was employed by SOSi during the Class Period as an immigration court
24 interpreter.

The Defendant

25
26 14. Upon information and belief, SOS International LLC (“SOSi”) is a Delaware
27 company, headquartered in New York, engaged in the business of servicing federal contracts,
28 particularly with respect to language interpretation. With respect to the allegations asserted by

1 Plaintiff, in or about July 2015, SOSi was awarded an exclusive contract by the Department of
2 Justice to provide interpreter services to the federal immigration courts, which are themselves a
3 branch of the Department of Justice which, upon information and belief, is administered by a sub-
4 agency or branch, the Executive Office of Immigration Review (“DOJ” and “EOIR”, respectively).

5 15. SOSi does business within the state of California, and employs managerial and/or
6 supervisory employees within the state of California.

7 16. SOSi employed Plaintiff and a significant number of the members of the classes she
8 seeks to represent within this judicial district.

9 17. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1 through
10 10, and therefore sues them by fictitious names. Plaintiff will amend her complaint to allege the true
11 names and capacities of the DOE Defendants when ascertained. Plaintiff is informed and believes,
12 and thereon alleges, that each of these fictitiously named Defendants is responsible in some manner
13 for the occurrences alleged herein and proximately caused Plaintiff’s damages.

14 18. Plaintiff is informed and believes, and thereon alleges, that the Defendant is, and at all
15 times material herein was, commonly owned and controlled, and was the agent, alter-ego, or other
16 representative of each of the remaining DOE Defendants. Each DOE Defendant at all material times
17 herein committed the acts and omissions herein alleged within the course and scope of its
18 representative or employment capacity and with the full knowledge, consent, authority and
19 ratification of the Defendant named herein. Plaintiff are informed and believe, and thereon allege,
20 that each of the Defendants is, and at all times material herein was, acting in concert and
21 combination with each of the remaining Defendants pursuant to a common plan and course of
22 conduct and is jointly and severally liable for the acts or conduct of every other Defendant.

23 19. Defendant SOSi and Does 1-100 constitute a single enterprise and/or are working in
24 concert are herein referred to as “Defendant.”

25 **FACTUAL ALLEGATIONS**

26 ***Defendant’s Business and Operations***

27 20. By service of this Complaint, Defendant is directed to preserve and maintain in its
28 original electronic format, all electronic data associated with the Plaintiff’s and the Classes’ work

1 assignments, work hours, payment and payment computations during the Class Period, COI forms,
2 and other materials reflecting such work, including any alterations made thereto.

3 21. Beginning on or about December 2015, Defendant began performance on an exclusive
4 contract from the federal government, specifically the Department of Justice, to provide interpreters
5 to the nation's immigration courts, that is all such courts within the states, districts, and territories of
6 the United States of America.

7 22. The immigration courts are administered by the Department of Justice and its sub-
8 agency, the Executive Office of Immigration Enforcement Review.

9 23. Defendant engaged Plaintiff and the members of the classes she seeks to represent to
10 provide interpreting services to the immigration courts for the purpose of rendering foreign-
11 languages into English, and vice-versa for the immigration courts.

12 24. Defendant designated Plaintiff and the members of the class she seeks to represent as
13 independent contractors when, as alleged below, they were in fact employees of Defendant.

14 25. The locations at which Plaintiff and the members of the California Class worked were
15 subject to California law.

16 ***Defendant's Misclassification Scheme***

17 26. California law establishes a public policy against workers' misclassification as
18 independent contractors (e.g. California Labor Code 226.8).

19 27. Under California and federal law, one is presumed to be an employee of another when
20 s/he is engaged by the other for pay.

21 28. Under California and federal law an employment relationship exists where either
22 directly, indirectly or as a result of the "economic realities" one or more principals retains the right
23 to control the means and manner by which the worker performs the services for which he is paid.

24 29. At all relevant times hereto, Defendant has controlled the means and manner by which
25 Plaintiff and the members of the FLSA and California Classes perform their work, through direct,
26 indirect control and as a result of the economic realities.

1 30. In addition, at all relevant times hereto, Defendant has retained the right to discharge
2 at will the Plaintiff and the members of the class she seeks to represent. Defendant has frequently
3 exercised such right.

4 31. Further, Plaintiff and the members of the classes she seeks to represent work under the
5 direction of Defendant and its agents when performing their interpreting services, and interpretation
6 and court interpretation work is typically performed under the direction of others.

7 32. Defendant frequently issues directives to the interpreters as to how to perform their
8 work and conduct themselves.

9 33. Defendant employs supervisors to oversee and direct interpreters as to the
10 performance of their job, and who assess interpreters as to their job performance, and who have the
11 right to issue discipline on behalf of Defendant and terminate interpreters' employment.

12 34. Defendant has disciplined interpreters for alleged failings in their performance of
13 duties, with such discipline including suspensions and warnings.

14 35. Defendant and its agents control both the mode and manner of the interpreting work
15 performed by Plaintiff and the members of the classes she seeks to represent.

16 36. Plaintiff and the members of the classes she seeks to represent are regularly and
17 consistently engaged by Defendant as interpreters at the immigration courts.

18 37. Defendant's business is the provision of interpreter and language services, and
19 therefore Plaintiff and the members of the class she seeks to represent are engaged to perform the
20 work that is central to Defendant's business.

21 38. Defendant provides tools required to perform courtroom interpretation, and provides
22 and arranges for training of the interpreters it employs.

23 39. Plaintiff and the members of the class she seeks to represent are paid for the amount of
24 time employed by Defendant, and not by the job.

25 40. When engaged by Defendant, Plaintiff and the members of the classes she seeks to
26 represent must work until released or dismissed from duty; they are not free to depart for the work
27 day until directed.

28

1 41. Plaintiff and the members of the classes she seeks to represent had no entrepreneurial
2 opportunity with respect to their interpreting work at the immigration courts. Indeed, Defendant
3 specifically prohibits interpreters from soliciting business clients at the immigration courts and
4 Defendant holds an exclusive contractual right to provide interpreters services to the immigration
5 courts.

6 42. Immigration court interpreters have worked long tenures and enjoyed a level of
7 permanency in such work.

8 43. Plaintiff and the members of the classes she seeks to represent have not invested in
9 equipment or material in order to perform interpreting work for Defendant.

10 44. The terms, policies, and right to control Plaintiff's and the members of the classes she
11 seeks to represent, were formalized by Defendant and applied uniformly with respect to all Class
12 members. Indeed, Defendant promulgated personnel policies, employment handbooks and other
13 written materials directing the means and manner of work that were uniformly applied and enforced
14 with respect to Plaintiff and the members of the classes she seeks to represent.

15 45. Plaintiff and the members of the classes she seeks to represent are employees of
16 Defendant.

17 ***Defendant's Employment Practices***

18 46. Defendant has failed to pay the immigration court interpreters for all time worked,
19 including but not limited to time spent before and after scheduled court hearings when interpreters
20 were required to arrive at least 30 minutes in advance of their assigned court hearings per company
21 policy and when interpreters were required to undergo security screenings, time spent obtaining
22 assignments following reporting to duty, time in between hearings where interpreters were required
23 to obtain and wait for additional assignments, time spent setting-up, and putting-away courtroom
24 audio equipment, assisting with the distribution of court notices and other administrative tasks.
25 Such time is compensable under federal and California law, and is time for which Plaintiff and the
26 interpreters were not paid.

1 47. Defendant failed to pay Plaintiff and the interpreters at the time when wages were due,
2 payable and owing. Defendant required, in many instances, interpreters to wait more than one
3 month to receive payment for their work, and in some cases two or more months.

4 48. When Defendant terminated or disqualified interpreters (and/or “non-renewed” them
5 in the parlance of Defendant), Defendant did not promptly remit to them their owed wages, and
6 failed to do so within the time required under California law and the FLSA.

7 49. Plaintiff and members of the classes she seeks to represent on occasion worked more
8 than eight hours in a day and more than forty hours in a week.

9 50. When plaintiff and interpreters worked more than eight hours in a day, or more than
10 forty hours in a week, Defendant failed to pay interpreters for such hours at the rate of time-and-a-
11 half.

12 51. Plaintiff and members of the California Class incurred expenses in the performance of
13 their work that was necessary and required by Defendant. Such expenses were incurred in direct
14 consequence of the discharge of their duties as directed or assigned by Defendant.

15 52. Defendant had direct knowledge that Plaintiff and California Class members incurred
16 necessary expenses.

17 53. Such unreimbursed expenses including, but are not limited to, mileage expenses
18 involved in driving to assigned remote court locations away from their “home base,” car rental fees
19 and other local transportation expenses necessitated by travel assignments to immigration court
20 locations in different cities, and subsistence expenses including meals when required to travel for
21 out-of-town assignments.

22 54. Defendant failed to promptly pay all wages owed to Plaintiff and interpreters upon
23 termination of employment. Defendant terminated the employment of interpreters and failed to pay
24 them all wages owing immediately upon termination, instead delaying the payment of final wages
25 by one month or more, and in some cases not paying interpreters for all the work they performed.

26 55. Defendant issued payment to Plaintiff and interpreters by check; however Defendant
27 failed to provide such payments with a written statement that contained all information required by
28 California law. As a result, Defendant failed to provide Plaintiff and interpreters with an itemized

1 wage statement containing the requisite information and detail. Specifically, Defendant failed to
2 provide wage statements containing the total hours worked, the inclusive dates of the pay period, the
3 applicable hourly rate, among other items, as required under California law.

4 56. Plaintiff and the California Class were injured by this failure, as they were unable to
5 confirm the accuracy – or lack of accuracy – of the wages paid them.

6 57. Defendant assigned Plaintiff and the other interpreters to appear at locations at
7 specified dates and times, and for specified durations.

8 58. On occasion, Plaintiff and interpreters were not engaged to work upon reporting to
9 work, for example when Defendant assigned two interpreters to cover a single hearing, in instances
10 when hearings were continued or cancelled, and as a result of other scheduling errors.

11 59. On such instances, Plaintiff and interpreters reported to work but were not paid
12 “reporting time” pay in accordance with California law, specifically the applicable Industrial
13 Welfare Commission Wage Order.

14 **THE FLSA COLLECTIVE ACTION ALLEGATIONS**

15 60. Plaintiff brings her FLSA claims as a collective action on behalf of herself and all
16 other similarly-situated persons who were/are employed by Defendant as immigration court
17 interpreters within the United States and its territories but who were designated and/or treated as
18 “independent contractors” by Defendant.

19 61. The basic job duties of the FLSA Class were/are the same as or substantially similar to
20 those of Plaintiff, and the members of the FLSA Class were/are paid in the same manner and under
21 the same terms and conditions, common policies, plans and practices as Plaintiff.

22 62. The FLSA Class, like Plaintiff, have been subject to the same unlawful policies, plans
23 and practices of Defendant, including misclassifying them as non-employees and failing to pay and
24 make prompt payment for all hours worked.

25 63. During the Class Period, Defendant was aware of its obligation under the FLSA and
26 knowingly engaged in the allegations set forth herein.

27 64. As a result of Defendant’s conduct as alleged herein, Defendant violated 29 U.S.C.
28 §206 by failing to pay to the FLSA Class and Plaintiff the prevailing minimum wage for all hours

1 worked with respect to off-the-clock duties and for failing to make timely payment, for a matter of
2 months, for hours worked, as alleged herein.

3 65. As a result of Defendant's conduct as alleged herein, Defendant violated 29 U.S.C.
4 §207.

5 66. Defendant's violations of the FLSA were willful, repeated, knowing, intentional and
6 without a good faith basis, and significantly damaged Plaintiff and the FLSA Class.

7 67. As a result of Defendant's conduct, Defendant is liable to Plaintiff and the FLSA Class
8 for the full amount of their unpaid wages including liquidated damages, plus the attorneys' fees and
9 costs incurred by Plaintiff and the FLSA Class in pursuing this action.

10 68. While the exact number of the FLSA Class is unknown to Plaintiff at the present time,
11 upon information and belief the number likely exceeds 1000 similarly-situated persons who were/are
12 employed by Defendant as an immigration court interpreter.

13 69. Plaintiff is currently unaware of the identities of the FLSA Class. Accordingly,
14 Defendant should be required to provide Plaintiff with a list of all persons engaged by Defendant as
15 immigration court interpreters during the Class Period, along with their last known addresses,
16 telephone numbers and e-mail addresses so that Plaintiff and her counsel may provide the FLSA
17 Class notice of this action and an opportunity to make an informed decision about whether to
18 participate in this FLSA Collective Action.

19 **RULE 23 CLASS ACTION ALLEGATIONS**

20 70. Plaintiff brings her California Labor Code claims as a class action pursuant to Federal
21 Rule of Civil Procedure 23 on behalf of herself and on behalf of all other similarly-situated persons
22 who during the Class Period were/are employed by Defendant as immigration court interpreters but
23 improperly classified by Defendant as "independent contractors," and who were not paid at their
24 regular rate of pay for all hours worked, nor paid their wages at the time those wages were due and
25 payable, nor paid at the overtime rate of one and one-half times their regular rate for all overtime
26 hours worked, nor reimbursed for expenses, nor promptly paid wages owed upon severance or
27 termination, nor paid all wages owed upon termination of employment, who were not provided
28 accurate and itemized pay stubs, nor paid promptly in accordance with California law, nor paid

1 reporting time for occasions when they were required to report for work but then dismissed, as
2 alleged above.

3 71. The basic job duties of the California Class were/are the same as or substantially
4 similar to those of Plaintiff and they were/are paid in the same manner and worked under the same
5 terms and conditions of employment, and under the common policies, plans and practices as
6 Plaintiff.

7 72. The members of the California Class, like Plaintiff, have been subject to the same
8 unlawful policies, plans and practices of Defendant, including:

9 a. Failure to pay interpreters for all time worked, including time spent before and
10 after scheduled court hearings, when interpreters were required to arrive at least 30 minutes in
11 advance of their assigned court hearings per company policy and when interpreters were required to
12 undergo security screenings, set up, put away, and charge courtroom audio equipment, and assist with
13 the distribution of court notices and other administrative tasks, compensable time for which they were
14 not paid.

15 b. Failure to pay interpreters at the time when those wages were due and payable,
16 requiring, in many instances, interpreters to wait more than one month to receive payment for their
17 services, and in some cases significantly more than one month.

18 c. Failure to pay at the rate of time-and-a -half for overtime hours on occasions
19 when interpreters were required to work more than eight hours in one day, or more than forty hours in
20 one week.

21 d. Failure to pay necessary expenses incurred in direct consequence of the
22 discharge of their duties, including, but not limited to mileage expenses involved in driving to remote
23 court locations away from their “home base,” car rental fees and other local transportation expenses
24 necessitated by travel assignments to immigration court locations in different cities, and subsistence
25 expenses including meals when required to travel for out-of-town assignments.

26 f. Failure to promptly pay all wages owed upon termination of employment.

27 Defendant terminated the employment of interpreters and failed to pay them all wages owing
28

1 immediately upon termination, instead delaying the payment of final wages by one month or more,
2 and in some cases not paying interpreters for all work performed.

3 g. Failure to include on wage statements the total hours worked, the inclusive
4 dates of the pay period, and the applicable hourly rates, among other items, as required under
5 California law.

6 h. Failure to pay interpreters for reporting time pay on occasions when
7 interpreters were required or scheduled to appear at court hearings and those hearings were cancelled,
8 postponed, or when Defendant scheduled more than one interpreter for the same hearing, or other
9 errors that prevented interpreters from working at the appointed time and place.

10 73. During the Class Period, Defendant was fully aware of the duties performed by
11 Plaintiff and the members of the California Class, and with respect to the allegations set forth below,
12 knowingly misclassified Plaintiff and members of the Class she seeks to represent as “independent
13 contractors” and failed to adhere to the obligations respecting employment required under the
14 California Labor Code.

15 74. As a result of Defendant’s conduct as alleged herein, Defendant violated the specified
16 provisions of the California Labor Code as to the California Class.

17 75. Defendant’s violations of the California Labor Code and/or its regulations were
18 willful, repeated, knowing, intentional and without a good faith basis, and significantly damaged
19 Plaintiff and the California Class.

20 76. As a result of Defendant’s conduct, Defendant is liable to Plaintiff and the California
21 Class for the full amount of wages for all hours worked and overtime wages, plus an additional
22 amount as liquidated damages, as well as civil penalties for the violations alleged herein, plus
23 reasonable attorneys’ fees and costs incurred by Plaintiff and the California Class.

24 77. Certification of the California Class’ claims as a class action pursuant to Rule 23 is the
25 most efficient and economical means of resolving the questions of law and fact common to
26 Plaintiff’s claims and the claims of the members of the California Class.

27 78. Plaintiff has standing to seek relief as the California Class’ representative because the
28 damages she has suffered from Defendant’s unlawful misclassification and compensation policies

1 and practices are typical and common to the California Class. Further, the class is sufficiently
2 numerous, likely exceeding 180 members, such that, without class certification, the same evidence
3 and issues would be subject to re-litigation in a multitude of individual lawsuits with an attendant
4 risk of inconsistent adjudications, conflicting obligations and exhaustion of judicial resources.

5 79. Certification of the California Class is the most efficient and judicious means of
6 presenting the evidence and arguments necessary to resolve such questions for Plaintiff, the
7 California Class and Defendants.

8 80. Plaintiff's claims raise questions of law and fact common to the California Class.
9 Among these questions are, *inter alia*:

10 a. Whether Defendant failed to pay Plaintiff and the California Class for all hours
11 worked during the Class Period;

12 b. Whether Defendant misclassified Plaintiff and the California Class as non-
13 employee independent contractors.

14 c. Whether Defendant failed to pay Plaintiff and the California Class overtime at
15 a rate of one and one-half times their regular rate of pay for all hours worked in excess of eight hours
16 in a day during the Class Period;

17 d. Whether Defendant failed to reimburse or indemnify Plaintiff and the
18 California Class for expenses incurred on behalf of Defendant in violation of Labor Code section
19 2802;

20 e. Whether Defendant paid all wages owed to severed or terminated employees
21 who were members of the California class as required by California Labor Code section 201.

22 f. Whether Defendant failed to pay Plaintiff and the California Class their wages
23 within the time required under California Labor Code section 204;

24 g. Whether Defendant failed to provide Plaintiff and the California Class the
25 required information on wage statements as required by California Labor Code section 226;

26 h. Whether Defendant failed to pay Plaintiff and the California Class the required
27 reporting pay on occasions when they reported for work but no work was available through no fault
28 of their own, as required by Industrial Welfare Commission Wage Order No. 4-2001, section 5.

- 1 i. Whether Defendant's violations were willful;
- 2 j. The adjudication of any affirmative defenses, should any be asserted.

3 81. These common questions of law and fact arise from the same course of events,
4 transactions, time periods, and practices, and each class member will make similar legal and factual
5 arguments to prove liability.

6 82. Plaintiff is a member of the California Class that she seeks to represent. Plaintiff's
7 claims are typical of the claims of the California Class. The relief Plaintiff seeks for the unlawful
8 policies and practices complained of herein are also typical of the relief which is sought on behalf of
9 the California Class.

10 83. Plaintiff's interests are co-extensive with those of the California Class that she seeks to
11 represent in this case. Plaintiff is willing and able to represent the California Class fairly and to
12 vigorously pursue their similar claims in this action.

13 84. Plaintiff has retained counsel qualified and experienced in employment class action
14 litigation, and who are able to meet the time and fiscal demands necessary to litigate a class action of
15 this size and complexity.

16 85. Plaintiff's counsel has been designated Class Counsel and Class Co-Counsel in
17 numerous employment class actions. The combined interests, experience and resources of Plaintiff
18 and their counsel to litigate the individual and California Class claims at issue in this case satisfy the
19 adequacy of representation requirement of Federal Rule of Civil Procedure 23(a)(4).

20 86. The common issues of fact and law affecting Plaintiff's claims and those of the
21 California Class members, including the common issues identified above, predominate over any
22 issues affecting only individual claims.

23 87. A class action is superior to other available means for the fair and efficient
24 adjudication of Plaintiff's claims and the claims of the California Class. There will be no difficulty
25 in the management of this action as a class action.

26 88. The cost of proving Defendant's violations of the California Labor Code makes it
27 impracticable for Plaintiff and the California Class to pursue their claims individually.

28

1 89. Maintenance of a class action promotes judicial economy by consolidating a large
2 class of plaintiffs litigating identical claims. The claims of the California Class interrelate such that
3 the interests of the members will be fairly and adequately protected in their absence. Additionally,
4 the questions of law and fact common to the California Class arise from the same course of events
5 and each class member makes similar legal and factual arguments to prove the Defendant's liability.

6 90. The California Class is so numerous that joinder of all members is impracticable.
7 While the exact number of the California Class is unknown to Plaintiff at the present time, it exceeds
8 180 other similarly-situated persons who employed by Defendant in the state of California.

9 91. Plaintiff is currently unaware of the identities of the California Class. Accordingly,
10 Defendant should be required to provide Plaintiff with a list of all persons engaged by Defendant in
11 California as immigration court interpreters during the Class Period, along with their last known
12 addresses, telephone numbers and e-mail addresses so Plaintiff can provide to the California Class
13 notice of this action and an opportunity to make an informed decision about whether to participate in
14 it.

15 **FIRST CAUSE OF ACTION**
16 **(Failure to Pay Overtime in Violation of 29 U.S.C. § 207)**
17 **[FLSA Class]**

18 92. Plaintiff, on behalf of herself and the members of the FLSA Class, hereby realleges
19 and incorporates by reference the preceding paragraphs as though they were fully set forth herein.

20 93. The FLSA requires covered employers, such as Defendant, to pay all non-exempt
21 employees at a rate not less than one and one-half times their regular rate of pay for all hours worked
22 in excess of 40 hours per workweek.

23 94. Defendant frequently did not pay Plaintiff and the members of the class she seeks to
24 represent for all hours worked, including hours that exceeded forty hours per week.

25 95. Defendant delayed payment to Plaintiff and the members of the class she seeks to
26 represent their earned pay for time worked for Defendant several months, thus Plaintiff and the
27 members of the class did not receive their pay for such work during such period and are entitled to
28 liquidated damages pursuant to the FLSA.

96. Plaintiff and the FLSA Class were not exempt from the provisions of the FLSA.

1 97. Plaintiff and the FLSA class were employees of Defendant during the Class Period.

2 98. Defendant's violations of the FLSA, including its failure to pay Defendants for time
3 worked, were both knowing and willful within the meaning of the FLSA.

4 99. The foregoing conduct of Defendant constitutes willful violations of the FLSA.

5 100. Defendant's violations of the FLSA have significantly damaged Plaintiff and the
6 members of the class she seeks to represent, and entitle them to recover the total amount of their
7 unpaid wages and overtime wages, including an additional amount in liquidated damages, attorneys'
8 fees and costs incurred in prosecuting this action.

9 **SECOND CAUSE OF ACTION**
10 **(Failure to Pay Minimum Wage; Action for Liquidated Damages Pursuant to 29 U.S.C. § 206**
11 **[FLSA Class])**

11 101. Plaintiff, on behalf of herself and the members of the FLSA Class, hereby realleges
12 and incorporates by reference the preceding paragraphs as though they were fully set forth herein.

13 102. The FLSA requires covered employers, such as Defendant to pay all non-exempt
14 employees the prevailing minimum wage for all hours worked.

15 103. Plaintiff and the FLSA Class were not exempt from the requirement that Defendant
16 pay them the prevailing minimum wage under the FLSA.

17 104. During the Class Period, Defendant did not pay Plaintiff and members of the FLSA
18 Class for all hours Defendant directed, engaged, suffered or permitted them to work for it.

19 105. As a result of Defendant's failure to pay Plaintiff and the members of the FLSA Class
20 for all hours worked, they did not receive the prevailing minimum wage for such hours worked.

21 106. In addition, and distinctly, Defendant failed to pay Plaintiff and the FLSA Class for
22 work performed, on a timely or prompt basis, but instead delayed payment for months or more at a
23 time. As a result of such delay, Defendant failed to pay Plaintiff and the FLSA Class as required
24 under the requirements of the FLSA for such time and is therefore liable for liquidated damages in
25 an amount equal to the wages not promptly paid.

26 107. Defendant's conduct in this regard was willful and knowing, and constitutes willful
27 violations of the FLSA.

1 117. Plaintiff has retained the services of attorneys herein to maintain and prosecute this
2 action, and Plaintiff is entitled to recovery of reasonable attorneys' fees and costs incurred on
3 Plaintiff's behalf in the prosecution of this action pursuant to Labor Code section 1194.
4

5 **FOURTH CAUSE OF ACTION**
6 **Failure to Timely Pay Earned Wages**
7 **(Violation of California Labor Code § 204)**
8 **[California Class]**

9 118. Plaintiff re-alleges and incorporates by reference the allegations in the preceding
10 paragraphs, as though fully set forth herein.

11 119. At all times material hereto, Labor Code section 204(b)(1) has required employers to
12 pay employees "all wages earned for labor in excess of the normal work period . . . no later than the
13 payday for the next regular payroll period."

14 120. Plaintiff and the California Class were employed by Defendant and entitled to receive
15 full payment of all earned wages as set forth in Labor Code section 204.

16 121. Defendant systematically failed and refused to provide Plaintiff and the California
17 Class with their earned wages within the time frames required under the Labor Code.

18 122. In addition, Defendant has suffered and permitted Plaintiff and California Class
19 members to perform work off the clock without receiving payment for their time worked.

20 123. As a direct result of Defendant's conduct as alleged herein, Plaintiff has suffered
21 monetary damages and is entitled to recover a sum according to proof of all unpaid wages plus
22 interest thereon.

23 124. Plaintiff has retained the services of attorneys herein to maintain and prosecute this
24 action, and Plaintiff is entitled to recovery of reasonable attorneys' fees and costs.

25 **FIFTH CAUSE OF ACTION**
26 **Failure to Provide Accurate Itemized Wage Statements**
27 **(Violation of California Labor Code § 226)**
28 **[California Class]**

125. Plaintiff re-alleges and incorporates by reference the allegations in the preceding
paragraphs, as though fully set forth herein.

1 3. For counsel for Plaintiff to be appointed as class counsel;

2 4. Declare that the practices complained of herein are unlawful under applicable
3 federal and state law;

4 5. Declare this action to be maintainable as a collective action pursuant to 29 U.S.C.
5 §216, and direct Defendants to provide Plaintiff with a list of all persons who were/are engaged
6 by Defendants as immigration court interpreters during the Class Period, including all last known
7 addresses, telephone numbers and e-mail addresses of each such person so Plaintiff can give such
8 persons notice of this action and an opportunity to make an informed decision about whether to
9 participate in it;

10 6. Determine the damages sustained by Plaintiff and the FLSA and California
11 Classes as a result of Defendant's violations, and award those damages in favor of Plaintiffs and
12 the FLSA Class, plus such pre-judgment and post-judgment interest as may be allowed by law;

13 7. Award Plaintiff and the FLSA Class liquidated damages because Defendant's
14 violations were willful and/or without a good faith basis;

15 8. Declare this action to be maintainable as a class action pursuant to Federal Rule of
16 Civil Procedure 23, and direct Defendant to provide Plaintiff with a list of all persons who were/are
17 engaged by Defendant in as immigration court interpreters during the Class Period, including all last
18 known addresses, telephone numbers and e-mail addresses of each such person so Plaintiff can give
19 such persons notice of this action and an opportunity to make an informed decision about whether
20 to participate in it;

21 9. Designate Plaintiff as representatives of her class, and her counsel of record as class
22 counsel;

23 10. Determine the damages and civil penalties as a result of Defendant's violation of the
24 California Labor Code, and award such damages and penalties against Defendant and in favor of the
25 Plaintiff and the California Class, plus such pre-judgment and post-judgment interest as allowed by
26 law including;

1 11. Award Plaintiff, the FLSA Class and the California Class their reasonable attorneys’
2 fees and costs and disbursements in this action including, but not limited to, any accountants’ or
3 experts’ fees; and

4 12. Enjoin Defendant from engaging in any acts of illegal retaliation and to cease from
5 engaging in the illegal practices alleged herein;

6 13. Grant Plaintiff, the FLSA Class and the California Class such other and further relief
7 that the Court deems just and proper including appropriate injunctive relief; and

8 14. For any other relief as the Court may award.

9
10 Dated: December 5, 2016

BEESON, TAYER & BODINE, APC

11
12 By: s/s Lorrie E. Bradley
13 Sheila K. Sexton
14 Costa Kerestenzis
15 Lorrie E. Bradley

16 Attorneys for Jo Ann Gutierrez-Bejar, on behalf
17 of herself and all other similarly-situated
18 persons

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff hereby requests a jury trial.

21
22 Dated: December 5, 2016

BEESON, TAYER & BODINE, APC

23 By: /s/ Lorrie E. Bradley
24 Sheila K. Sexton
25 Costa Kerestenzis
26 Lorrie E. Bradley

27 Attorneys for Jo Ann Gutierrez-Bejar, on behalf
28 of herself and all other similarly-situated
persons