



1 allegations that pertain to the named Plaintiffs, which are based upon personal knowledge, as  
2 follows:

3 **PRELIMINARY STATEMENT**

4 1. This is a class action under Code of Civil Procedure § 382, and/or a representative  
5 action under Business & Professions Code §§ 17200 et seq. and Labor Code § 2699, seeking  
6 unpaid overtime wages, unpaid wages for meal periods not provided, waiting time penalties for  
7 overtime and meal period wages not timely paid upon separation from employment, damages or  
8 penalties for failure to provide itemized wage and hour statements, restitution of unpaid overtime  
9 and meal period wages, penalties for Labor Code violations, interest, equitable relief, and  
10 reasonable attorney's fees and costs, under California Labor Code §§ 201, 202, 203, 218.5, 218.6,  
11 226, 226.7, 510, 512, 1174, 1194, 2699, California Business & Professions Code §§ 17200 et  
12 seq., California Industrial Welfare Commission ("IWC") Wage Order No. 4 §§ 3, 7 and 11,  
13 California Civil Code §§ 3287-3289, and California Code of Civil Procedure § 1021.5. This  
14 action is brought on behalf of Plaintiffs and all other persons who have been employed by  
15 Defendants in California in the job positions titled "team leader" or "area team leader" to work at  
16 one or more Verizon Wireless retail stores ("Class Position") during the statute of limitations  
17 periods applicable to the claims pleaded herein ("Class Period"). Persons holding a Class  
18 Position(s) during the Class Period are sometimes referred to herein as "Class Members," and  
19 other times as "others similarly situated."

20 2. Throughout the Class Period, Defendants have maintained a policy and practice of  
21 (1) requiring, suffering or permitting Class Members, including Plaintiffs, to work in excess of  
22 eight (8) hours in one workday, twelve (12) hours in one workday, and forty (40) hours in one  
23 workweek, and to work on all seven days of the workweek, including hours in excess of eight (8)  
24 hours on the seventh day of the workweek, without paying them overtime compensation as and in  
25 the manner required by Labor Code § 510 and IWC Wage Order No. 4, § 3; (2) failing to provide  
26 Class Members with meal periods as and in the manner required by Labor Code §§ 226.7 and 512  
27 and IWC Wage Order No. 4, § 11, and failing to pay Class Members an additional hour's pay for  
28 each instance in which Defendants fail to provide them with such meal periods, as required by

1 Labor Code §§ 226.7 and IWC Wage Order No. 4, § 11; (3) willfully failing to pay Class  
2 Members all overtime and meal period wages due within the time period specified by California  
3 law when Class Members separate from employment, as and in the manner required by Labor  
4 Code §§ 201 and 202; (4) failing to provide Class Members with itemized wage statements  
5 containing all the information required Labor Code § 226 and Industrial Welfare Commission  
6 IWC Wage Order No. 4, § 7; and, (5) failing to maintain records of the hours Class Members  
7 work, as and in the manner required by Labor Code § 1174 and IWC Wage Order No. 4, § 7.

### 8 JURISDICTION AND VENUE

9 3. This Court has jurisdiction over Plaintiffs' and Class Members' claims for unpaid  
10 overtime wages under Labor Code § 1194.

11 4. This Court has jurisdiction over Plaintiffs' and Class Members' claims for unpaid  
12 meal period wages under Labor Code §§ 218.5, 218.6, 226.7, and 512.

13 5. This Court has jurisdiction over Plaintiffs' and class members' claims for waiting  
14 time penalties under Labor Code § 203.

15 6. This Court has jurisdiction over Plaintiffs' and Class Members' claims for  
16 itemized wage statement violations under Labor Code § 226.

17 7. This Court has jurisdiction over Plaintiffs' and Class Members' claims for  
18 restitution arising from Defendants' unlawful business practices under Business & Professions  
19 Code §§ 17203 and 17204.

20 8. Upon exhaustion of administrative remedies, this Court shall have jurisdiction  
21 over Plaintiffs' and Class Members' claims for penalties for Defendants' Labor Code violations  
22 under Labor Code §§ 2699 and 2699.3.

23 9. Venue is proper in this judicial district, pursuant to Code of Civil Procedure  
24 §§ 395(a) and 395.5. Defendants are headquartered in the State of California and transact  
25 business in California and in Alameda County.

### 26 THE PARTIES

27 10. Plaintiffs Patrick Bignardi, Aaron Barrett, and Timothy Whitehead are former  
28 employees of Defendants who worked in Class Positions during the Class Period. Plaintiff

1 Bignardi worked in a Class Position from November 2006 through September 2007. Plaintiff  
2 Barrett worked in a Class Position from June 2006 through June 2008. Plaintiff Whitehead  
3 worked in a Class Position from August 2006 through November 2007. Plaintiffs Bignardi and  
4 Barrett were employed as “area team leads” assigned to work at Verizon retail stores. Plaintiff  
5 Whitehead was employed as a “team lead” assigned to work at Verizon retail stores.

6 11. Defendant Flextronics America LLC is a limited liability company with its  
7 principal place of business in the City of Milpitas, County of Santa Clara, State of California, and  
8 is a subsidiary of Flextronics International Ltd., which was founded in Silicon Valley in 1969.  
9 Before October 2007, Plaintiffs and class members were employed by the Solectron Global  
10 Services Wireless Division of Solectron Corporation, a California corporation with its principal  
11 place of business in the City of Milpitas, County of Santa Clara, State of California. In October  
12 2007, Flextronics International Ltd. acquired Solectron Corporation and transferred the  
13 operations of its Solectron Global Services Wireless Division to Flextronics America LLC.  
14 Those operations continued to be based in the City of Milpitas, County of Santa Clara, State of  
15 California. Flextronics America LLC assumed all of Solectron’s obligations and liabilities to  
16 Plaintiffs. The practices and policies that are complained of by way of this complaint were  
17 enforced by Solectron Corporation and Flextronics America LLC throughout California during  
18 the Class Period.

19 12. Plaintiffs are ignorant of the true names and capacities of the Doe Defendants.  
20 When their true names and capacities are ascertained, Plaintiffs will seek leave to amend the  
21 Complaint to identify them.

22 13. Defendants, and each of them, including Does 1 through 10, contributed to the  
23 events and happenings as hereinafter set forth and that their acts and omissions contributed to the  
24 Plaintiffs’ damages and losses as hereinafter set forth, and that each of the Defendants, including  
25 Does 1 through 10, were at all times herein mentioned the agents and employees of each other  
26 and of each of the other Defendants, and that each of the acts of which Plaintiffs complain was  
27 ratified by each of the other Defendants or committed with advance knowledge and direct  
28 participation of each of the other Defendants.

CLASS ACTION ALLEGATIONS

1  
2           14.     As to all representative claims requiring class action certification under Code of  
3 Civil Procedure § 382, other than the claim for waiting time penalties under Labor Code § 203,  
4 Plaintiffs bring this action on behalf of themselves and as a class action on behalf of the  
5 following proposed class, the members of which have all been damaged by Defendants' above-  
6 described conduct, and who are referred to herein as "Class Members:"

7           All persons who have been employed by Defendants in California in the job  
8 positions titled "team leader" or "area team leader" to work at one or more  
9 Verizon Wireless retail stores during the statute of limitations periods applicable  
to the claims pleaded herein.

10           15.     With respect to the claim for Labor Code § 203 waiting time penalties, Plaintiffs  
11 bring this action only on behalf of the following proposed subclass, the members of which have  
12 all been damaged by Defendants' above-described conduct, and who, when discussed specifically  
13 in their capacity as members of the subclass, are referred to as "Waiting Time Subclass  
14 Members:"

15           All Class Members whose employment with Defendants terminated on or after the  
16 date that is three years and three days before the date on which the original  
complaint in this action is filed.

17           16.     The claims alleged in this Complaint on behalf of Plaintiffs and Class Members  
18 are limited to claims arising out of periods of employment in a Class Position during the Class  
19 Period.

20           17.     This action has been brought and may properly be maintained as a class action  
21 consistent with Code of Civil Procedure § 382 because there is a well defined community of  
22 interest in the litigation and the proposed class and subclass are easily ascertainable.

23           a.     Commonality: Plaintiffs and Class Members share a community of interest  
24 in that there are numerous common questions and issues of fact and law which predominate over  
25 any questions and issues solely affecting individual Class Members, including, but not  
26 necessarily limited to:

27                   1.     Whether Defendants violated Labor Code § 510 by failing to pay  
28 overtime compensation to Class Members when they worked overtime hours.

1                                    2.        Whether Defendants violated Labor Code § 226.7 by failing to  
2 provide Class Members with meal periods in accordance with California Industrial Welfare  
3 Commission Wage Order No. 4 and failing to pay them an additional hour of pay for each  
4 instance in which they were not provided with a meal period;

5                                    3.        Whether Defendants violated Labor Code § 226 by failing to  
6 provide Class Members with itemized wage statements showing, among other things, all their  
7 daily and weekly hours worked, and all applicable hourly rates of pay;

8                                    4.        Whether Defendants willfully failed to pay overtime or meal period  
9 wages to Waiting Time Subclass Members immediately upon their separation from employment  
10 (or within 72 hours of their separation if they did not give 72 hours notice of their intention to  
11 quit);

12                                   5.        Whether Defendants violated Business and Professions Code  
13 § 17200 by failing to pay overtime and/or meal period wages; and,

14                                   6.        Whether Defendants failed to keep complete and accurate records  
15 of Class Members' hours of work as required by California Labor Code § 1174 and California  
16 Industrial Welfare Commission Wage Order No. 4.

17                                   b.        Typicality: Plaintiffs' claims are typical of the claims of the Class  
18 Members and the Waiting Time Subclass Members. Plaintiffs and all Class Members and  
19 Waiting Time Subclass Members sustained injuries and damages arising out of and caused by  
20 Defendants' common course of conduct in violation of the law as alleged herein.

21                                   c.        Numerosity: A class action is the only available method for the fair and  
22 efficient adjudication of this controversy. The class is so numerous that joinder of all members is  
23 impractical, if not impossible, insofar as , among other things, the total number of Class Members  
24 is approximately 100 and Class Members are geographically dispersed. Membership in the class  
25 and subclass is easily ascertainable from employment, payroll and other records maintained by  
26 Defendants.

27                                   d.        Superiority of Class Action: Should separate actions be brought or be  
28 required to be brought by each individual Class Member, the resulting multiplicity of lawsuits

1 would cause undue hardship and expense for the Court and the litigants. The prosecution of  
2 separate actions would also create a risk of inconsistent rulings, which might be dispositive of the  
3 interests of other class members who are not parties to the adjudications and/or may substantially  
4 impede their ability to adequately protect their interests.

5 e. Adequacy of Representation: The Plaintiffs are adequate representatives of  
6 the class and the subclass, in that their claims are typical of those of the other Class Members and  
7 Waiting Time Subclass Members and the Plaintiffs have the same interests in the litigation of this  
8 case as the unnamed Class Members and Waiting Time Subclass Members. Plaintiffs are  
9 committed to vigorous prosecution of this case, and have retained competent counsel experienced  
10 in class action wage and hour litigation. Plaintiffs are not subject to any individual defenses  
11 unique from those conceivably applicable to the class as a whole. Plaintiffs anticipate no  
12 management difficulties in this litigation.

13 **FIRST CAUSE OF ACTION**  
14 **UNPAID OVERTIME WAGES**  
15 **(Labor Code §§ 510, 1194)**

16 18. Plaintiffs incorporate in this cause of action each and every allegation of  
17 paragraphs 1 through 17, inclusive, with the same force and effect as though fully set forth  
18 herein.

19 19. The laws of the State of California require an employer, such as Defendants, to  
20 pay overtime compensation to all employees, unless they are made exempt from the overtime pay  
21 requirements by the Legislature or the IWC. Plaintiffs and Class Members have not qualified for  
22 any exemption at any time relevant to this action. Therefore, Plaintiffs and Class Members have  
23 at all times relevant to this action been entitled to be paid overtime compensation for all overtime  
24 hours worked.

25 20. During the Class Period, Plaintiffs and Class Members have worked in excess of  
26 eight (8) hours in a workday, twelve (12) hours in workday, (40) hours in a workweek, all seven  
27 days of a workweek, and in excess of eight (8) hours on the seventh day of a workweek.

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**THIRD CAUSE OF ACTION**  
**WAITING TIME PENALTIES**  
**(Labor Code §§ 201, 202, 203)**

26. Plaintiffs incorporate in this cause of action each and every allegation of paragraphs 1 through 25, inclusive, with the same force and effect as though fully set forth herein.

27. This cause of action applies only to the waiting time subclass.

28. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due immediately upon discharge, or within seventy-two (72) hours of quitting without notice. Labor Code § 203 provides that where an employer willfully fails to make such timely payment, the employer must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty (30) days' wages.

29. Plaintiffs and Waiting Time Subclass Members have separated from employment with Defendants without being paid the overtime and meal period wages that are due to them within the time required by Labor Code §§ 201 and 202. Defendants' failure to pay these wages has been and continues to be willful.

30. As a result of Defendants' conduct, each Plaintiff and Waiting Time Subclass Member is entitled to waiting time penalties in the amount of up to thirty (30) days' wages under Labor Code § 203, together with interest thereon and reasonable attorney's fees and costs.

**FOURTH CAUSE OF ACTION**  
**ITEMIZED WAGE STATEMENT VIOLATIONS**  
**(Labor Code § 226)**

31. Plaintiffs incorporate in this cause of action each and every allegation of paragraphs 1 through 30, inclusive, with the same force and effect as though fully set forth herein.

32. Under Labor Code § 226(a), Defendants have at all relevant times been required to provide Plaintiffs and Class Members with regular itemized written statements showing, among other things, total hours worked, all applicable hourly rates during the pay period, and the corresponding number of hours worked at each rate by the employee. Defendants knowingly and

1 intentionally failed to provide timely, accurate itemized wage statements including this required  
2 information.

3 33. Under Labor Code § 226(e), an employee suffering injury as a result of a knowing  
4 and intentional failure by an employer to comply with § 226(a) is entitled to recover the greater  
5 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs  
6 and one hundred dollars (\$100) for each violation in a subsequent pay period., up to a maximum  
7 amount of \$4,000.

8 34. As a direct and proximate result of Defendants' conduct, each Plaintiff and Class  
9 Member has been injured by, among other things, not being paid all wages due, not knowing how  
10 many hours he or she worked and at what rate(s), and being required to file this action to recover  
11 their wages and determine the amount of hours worked and wages due. Plaintiffs and Class  
12 Members are entitled to recover the damages or penalties provided by Labor Code § 226(e),  
13 including interest thereon, and costs and reasonable attorney's fees and costs

14 **FIFTH CAUSE OF ACTION**  
15 **UNLAWFUL BUSINESS PRACTICES**  
16 **(Business & Professions Code §§ 17200-17208)**

17 35. Plaintiffs incorporate in this cause of action each and every allegation of  
18 paragraphs 1 through 33, inclusive, with the same force and effect as though fully set forth  
19 herein.

20 36. Plaintiffs bring this cause of action on behalf of themselves and others similarly  
21 situated, seeking restitution of all unpaid overtime and meal period wages as described above,  
22 including interest thereon, for the four-year period preceding the filing of this complaint.

23 37. Defendants' conduct, as alleged herein, constitutes an unlawful, unfair, and/or  
24 fraudulent business practice, as set forth in Business & Professions Code § 17200. Defendants  
25 conducted business activities while failing to comply with the legal mandates cited herein.  
26 Plaintiffs and others similarly situated suffered injury in fact and lost money as a result of  
27 Defendants' unfair competition. Though it is not a requirement for maintaining this cause of  
28 action, Plaintiffs aver that they and others similarly situated do not have an adequate remedy at

1 law, including because the statute of limitations applicable to Labor Code claims for unpaid  
2 overtime and meal period wages is three years.

3 38. As a result of Defendants' unlawful and unfair business practices, Plaintiffs are  
4 entitled to and do seek restitution, and other appropriate relief available under Business &  
5 Professions Code § 17203, on their own behalves, and on behalf of others similarly situated.

6 **FIFTH CAUSE OF ACTION**  
7 **PRIVATE ATTORNEYS GENERAL ACT PENALTIES**  
8 **(Labor Code § 2699)**

9 Plaintiffs incorporate in this cause of action each and every allegation of paragraphs 1  
through 37, inclusive, with the same force and effect as though fully set forth herein.

10 39. Under the Private Attorneys General Act of 2006, Labor Code §§ 2698-2699.5, an  
11 aggrieved employee, on behalf of himself or herself and other current or former employees, may  
12 recover penalties under any provision of the Labor Code that provides for civil penalties. These  
13 penalties are in addition to any other relief available under the Labor Code.

14 40. As set forth above, Defendants have committed numerous violations for which the  
15 Labor Code provides for penalties, including violations of §§ 201, 202, 203, 226, 226.7, 510,  
16 512, and 1174.

17 41. The Plaintiffs have provided written notice by certified mail to the Labor &  
18 Workforce Development Agency ("LWDA") and to Defendant Flextronics of the legal claims  
19 and theories of this case contemporaneous with the filing of this complaint. After receiving  
20 notification from the LWDA that it does not intend to investigate the alleged violations, or after  
21 thirty-three days of the postmark date of giving notice to the LWDA if no response has been  
22 received from the LWDA, Plaintiffs will seek leave to amend this complaint to allege exhaustion  
23 of administrative remedies as required by Labor Code Section 2699.3.

24 42. As a direct result of Defendants' conduct as described, Plaintiffs are entitled to  
25 recover, on their own behalves and on behalf of others similarly situated, the maximum civil  
26 penalties permitted by the Private Attorneys General Act from Defendants for all violations of  
27 Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, and 1174, as well as reasonable attorney's  
28 fees and costs.

RELIEF SOUGHT

WHEREFORE, Plaintiffs, on behalf of themselves, the proposed class, the proposed subclass, and/or others similarly situated, pray for judgment and the following specific relief against Defendants as follows:

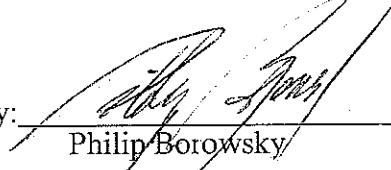
- A. That the Court determine that the relevant claims in this complaint action may be maintained as a class action under Code of Civil Procedure § 382, and/or as a representative action under Business and Professions Code § 17200 et seq and Labor Code § 2699;
- B. That Defendants are found to have violated the overtime provisions of the Labor Code as to Plaintiff and Class Members;
- C. That Defendants are found to have violated the meal period provisions of IWC Wage Order No. 4 and the Labor Code as to Plaintiff and the Class Members;
- D. That Defendants are found to have violated Labor Code §§ 201, 202 and 203 for willful failure to pay all compensation owed at the time of termination of employment to Plaintiffs and Waiting Time Subclass Members;
- E. That Defendants are found to have violated the itemized wage statement requirements of Labor Code § 226 as to Plaintiffs and the Class Members;
- F. That Defendants are found to have violated the record-keeping requirements of Labor Code § 1174 as to Plaintiffs and the Class Members;
- G. That Defendants are found to have violated Business and Professions Code § 17200 by failing to pay Plaintiffs and others similarly situated overtime and meal period wages as required by Labor Code §§ 226.7 and 510.
- H. An award to Plaintiffs and Class Members of damages for the amount of unpaid overtime compensation, including interest thereon, and, as to the Waiting Time Subclass Members, waiting-time penalties, subject to proof at trial;
- I. An award to Plaintiffs and Class Members of damages for the amount of unpaid meal period compensation, including interest thereon, and, as to Waiting Time Subclass Members, waiting-time penalties, subject to proof at trial;

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- J. An award to Plaintiffs and the Class Members of damages or penalties for Defendants' failure to provide timely, accurate itemized wage statements in accordance with Labor Code §§ 226;
- K. That Defendants be ordered to pay restitution to Plaintiffs and others similarly situated due to Defendants' unlawful activities, pursuant to Business and Professions Code § 17200 et seq , for the four years preceding the filing of this complaint;
- L. That Plaintiffs and the Class Members be awarded reasonable attorney's fees and costs pursuant to applicable provisions of law, including Labor Code §§ 218.5, 226, 1194, and 2699, and Code of Civil Procedure § 1021.5;
- M. That Plaintiff and Class Members or Subclass Members be awarded penalties under Labor Code § 2699 for all of Defendants' violations of Labor Code §§ 201, 202, 203, 226.7, 510, 512 and 1174;
- N. For interest pursuant to applicable provisions of law, including but not limited to Labor Code §§ 218.6 and 1194, Civil Code §§ 3287, 3288, and 3289, and Business & Professions Code § 17203.
- O. An award of such other and further equitable and legal relief as this Court may deem appropriate

Dated: April 28, 2009

Respectfully submitted,  
BOROWSKY & HAYES, LLP

By:   
Philip Borowsky  
Attorneys for Plaintiffs

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Plaintiffs hereby demand a trial by jury

Dated: April 28, 2009

BOROWSKY & HAYES, LLP

By:   
Philip Borowsky

Attorneys for Plaintiffs