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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

GARY KIRKWOOD, on behalf of himself  
and others similarly situated,

Plaintiff,

v.

NOBLE FOOD GROUP, INC., NFG  
CHICAGO, LLC, NFG PORTLAND,  
LLC, NFG SALEM, LLC, NFG SAN  
FRANCISCO, LLC and NFG SEATTLE,  
LLC,

Defendants.

Case No.

**CLASS AND COLLECTIVE  
ACTION COMPLAINT**

Jury Trial Demanded

Plaintiff Gary Kirkwood, individually and on behalf of all other similarly situated pizza delivery drivers, for his Complaint against Defendants, alleges:

1. Defendants Noble Food Group, Inc., NFG Chicago, LLC, NFG Portland, LLC, NFG Salem, LLC, NFG San Francisco, LLC and NFG Seattle, LLC together operate approximately 58 Domino's Pizza stores in Washington, California, Illinois, and Oregon. Defendants employ delivery drivers who use their own automobiles to deliver pizza and

1 other food items to Defendants' customers. Instead of reimbursing their delivery drivers  
2 for the reasonably approximate costs of the business use of their vehicles, Defendants use  
3 a flawed method to determine reimbursement rates that provides such an unreasonably  
4 low rate beneath any reasonable approximation of the expenses they incur that the  
5 drivers' unreimbursed expenses cause their wages to fall below the minimum wage  
6 during some or all workweeks (nominal wages – unreimbursed vehicle costs = sub-  
7 minimum net wages).

8 2. Plaintiff brings Count I of this lawsuit as a collective action under the Fair Labor  
9 Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, to recover unpaid minimum wages owed  
10 to himself and similarly situated delivery drivers employed by Defendants at all of their  
11 Domino's Pizza stores.

12 3. Plaintiff brings Count II of this lawsuit as a class action under the Washington  
13 Minimum Wage Act, Wash. Rev. Code § 49.46 *et seq.* ("WMWA") and governing  
14 regulations, to recover unpaid minimum wages owed to himself and similarly situated  
15 delivery drivers employed by Defendants at their Domino's Pizza stores located in  
16 Washington.

### 17 **Jurisdiction and Venue**

18 4. The FLSA authorizes court actions by private parties to recover damages for  
19 violation of the FLSA's wage and hour provisions. Jurisdiction over Plaintiff's FLSA  
20 claim is based on 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

21 5. The WMWA authorizes court actions by private parties to recover damages for  
22 violation of the wage provisions of the WMWA. Jurisdiction over Plaintiff's WMWA  
23 claim is based on Wash. Rev. Code § 49.46.090 and 28 U.S.C. § 1367(a).

1 6. Venue in this District is proper under 28 U.S.C. § 1391 because Defendants employ  
2 Plaintiff in this District, substantial events and occurrence giving rise to the claims  
3 occurred in this District, and all Defendants are subject to personal jurisdiction in this  
4 District.

5 **Parties**

6 7. Defendant Noble Food Group, Inc. is a Delaware corporation that, along with the  
7 other Defendants, operates a chain of Domino's Pizza stores including stores located in this  
8 District.

9 8. Defendants NFG Chicago, LLC, NFG Portland, LLC, NFG Salem, LLC, NFG San  
10 Francisco, LLC and NFG Seattle, LLC are Delaware limited liability companies that, along  
11 with each other and Defendant Noble Food Group, Inc., operate a chain of Domino's Pizza  
12 stores including stores located in this District.

13 9. Defendants comprise a "single employer" or "single integrated enterprise" as they  
14 maintain interrelated operations, centralized control of labor relations, common  
15 management, common ownership and common financial control.

16 10. Alternatively and/or cumulatively, Defendants constitute "joint employers" as  
17 they share power to hire and fire delivery drivers, supervision and control of their work  
18 schedule or conditions of employment, determination of their rate and method of  
19 payment and/or reimbursement, and maintenance of their employment records.

20 11. Alternatively and/or cumulatively, Defendants are "joint employers" because the  
21 work performed by the delivery drivers simultaneously benefited all Defendants and (1)  
22 Defendants are acting directly or indirectly in the interest of each other in relation to the  
23 delivery drivers and / or (2) Defendants are not completely disassociated with respect to  
24 the employment of the delivery drivers and they share control of the delivery drivers,

1 directly or indirectly, by reason of the fact that they are under common control. 29 U.S.C.  
2 § 203(d); 29 C.F.R. §§ 791.2(b)(2) & (3).

3 12. From about June of 2011 to present, Plaintiff Gary Kirkwood has been employed  
4 by Defendants as a delivery driver at their Domino's Pizza store in Lake Stevens,  
5 Washington. Plaintiff Kirkwood's Consent to Become a Party Plaintiff under 29 U.S.C.  
6 § 216(b) is attached as Exhibit 1.

### 7 **General Allegations**

#### 8 ***Defendants' Business***

9 13. Defendants own and operate approximately 58 Domino's Pizza franchise stores in  
10 Washington, California, Illinois, and Oregon.

11 14. Defendants' Domino's Pizza stores employ delivery drivers who all have the same  
12 primary job duty: to deliver pizzas and other food items to customers' homes or  
13 workplaces.

#### 14 ***Defendants' Flawed Reimbursement Policy***

15 15. Defendants require their delivery drivers to maintain and pay for safe, legally-  
16 operable, and insured automobiles when delivering pizza and other food items.

17 16. Defendants' delivery drivers incur costs for gasoline, vehicle parts and fluids,  
18 repair and maintenance services, insurance, depreciation, and other expenses  
19 ("automobile expenses") while delivering pizzas for the primary benefit of Defendants.

20 17. Defendants' delivery driver reimbursement policy reimburses drivers based on a  
21 per-mile rate, but that per-mile rate falls far below the IRS business mileage  
22 reimbursement rate or any other reasonable approximation of the cost to own and  
23 operate a motor vehicle. This policy applies to all of Defendants' delivery drivers.

1 18. The result of Defendants' delivery driver reimbursement policy is a  
2 reimbursement of much less than a reasonable approximation of their drivers'  
3 automobile expenses.

4 19. During the applicable FLSA limitations period, the IRS business mileage  
5 reimbursement rate ranged between \$.535 and \$.575 per mile. Likewise, reputable  
6 companies that study the cost of owning and operating a motor vehicle and/or reasonable  
7 reimbursement rates, including the American Automobile Association ("AAA"), have  
8 determined that the average cost of owning and operating a sedan ranged between \$.531  
9 and \$.58 per mile during the same period for drivers who drive 15,000 miles per year.  
10 These figures represent a reasonable approximation of the average cost of owning and  
11 operating a vehicle for use in delivering pizzas.

12 20. The driving conditions associated with the pizza delivery business cause more  
13 frequent maintenance costs, higher costs due to repairs associated with driving, and more  
14 rapid depreciation from driving as much as, and in the manner of, a delivery driver.  
15 Defendants' delivery drivers further experience lower gas mileage and higher repair costs  
16 than the average driver used to determine the average cost of owning and operating a  
17 vehicle described above due to the nature of the delivery business, including frequent  
18 starting and stopping of the engine, frequent braking, short routes as opposed to  
19 highway driving, and driving under time pressures.

20 21. Defendants' reimbursement policy does not reimburse their delivery drivers for  
21 even their ongoing out-of-pocket expenses, much less other costs they incur to own and  
22 operate their vehicle, and thus Defendants uniformly fail to reimburse their delivery  
23 drivers at any reasonable approximation of the cost of owning and operating their  
24 vehicles for Defendants' benefit.

1 22. Defendants' systematic failure to adequately reimburse automobile expenses  
2 constitutes a "kickback" to Defendants such that the hourly wages they pay to Plaintiff  
3 and their other delivery drivers are not paid free and clear of all outstanding obligations  
4 to Defendants.

5 23. Defendants fail to reasonably approximate the amount of their drivers' automobile  
6 expenses to such an extent that their drivers' net wages are diminished beneath the  
7 federal and/or state minimum wage.

8 24. In sum, Defendants' reimbursement policy and methodology fail to reflect the  
9 realities of delivery drivers' automobile expenses.

10 *Defendants' Failure to Reasonably Reimburse Automobile Expenses Causes Minimum  
11 Wage Violations*

12 25. Regardless of the precise amount of the per-delivery reimbursement at any given  
13 point in time, Defendants' reimbursement formula has resulted in an unreasonable  
14 underestimation of delivery drivers' automobile expenses throughout the recovery  
15 period, causing systematic minimum wage violations.

16 26. Plaintiff Kirkwood was paid the exact Washington minimum wage during his  
17 employment with Defendants.

18 27. The federal minimum wage has been \$7.25 per hour since July 24, 2009.

19 28. Washington's hourly minimum wage was \$9.47 in 2015 and 2016, \$11.00 in 2017,  
20 and \$11.50 in 2018.

21 29. During Plaintiff Kirkwood's employment, Defendants provided him a per-delivery  
22 reimbursement of \$.90 for the first delivery and an additional \$.70 if there was more than  
23 one delivery on a single run. Using an industry average of 40% for multi-delivery runs  
24 results in a per delivery reimbursement of \$1.18 on a weighted average basis ( $$.90 + ($.70 \times$   
25  $.4) = \$1.18$ ).

1 30. Throughout his employment with Defendants, Plaintiff Kirkwood experienced an  
2 average delivery distance of at least 5 miles.

3 31. Thus, during Plaintiff Kirkwood's employment, Defendants provided him a per-  
4 mile reimbursement of approximately \$.236 (\$1.18 per delivery / 5 miles) or less.

5 32. To illustrate Defendants' under-reimbursements, during part of this same time  
6 period, the lowest IRS standard business mileage reimbursement rate was \$.535 per mile,  
7 which reasonably approximated the automobile expenses incurred delivering pizzas.  
8 Using the IRS rate as a reasonable approximation of Plaintiff Kirkwood's automobile  
9 expenses, every mile driven on the job decreased his net wages by approximately \$.299  
10 (\$.535 - \$.236) per mile or more. Considering Plaintiff's estimate of at least 5 miles per  
11 delivery, Defendants under-reimbursed him at least \$1.495 per delivery (\$.299 x 5 miles)  
12 or more.

13 33. During his employment by Defendants, Plaintiff Kirkwood typically averaged  
14 approximately 3 deliveries per hour.

15 34. Thus, comparing Defendants' reimbursement rate to the IRS rate, Plaintiff  
16 Kirkwood "kicked back" to Defendants approximately \$4.485 per hour (\$1.495 per  
17 delivery x 3 deliveries per hour), for an effective sub-minimum hourly wage rate of  
18 approximately \$4.985 or less in 2015 and 2016 (\$9.47 per hour - \$4.485 kickback),  
19 approximately \$6.515 or less (\$11.00 - \$4.485 kickback) in 2017 and approximately \$7.015  
20 or less (\$11.50 - \$4.485 kickback) in 2018.

21 35. All of Defendants' delivery drivers had similar experiences to those of Plaintiff  
22 Kirkwood. They were subject to the same reimbursement policy; received similar  
23 reimbursements; incurred similar automobile expenses; completed deliveries of similar  
24

1 distances and at similar frequencies; and were paid at or near the federal minimum wage  
2 before deducting unreimbursed business expenses.

3 36. Because Defendants paid their drivers a gross hourly wage at precisely, or at least  
4 very close to, the applicable minimum wage, and because the delivery drivers incurred  
5 unreimbursed automobile expenses, the delivery drivers "kicked back" to Defendants an  
6 amount sufficient to cause minimum wage violations.

7 37. While the amount of Defendants' actual reimbursements per delivery may vary  
8 over time, Defendants have relied on the same flawed policy and methodology with  
9 respect to all delivery drivers at all of their other Domino's Pizza stores. Thus, although  
10 reimbursement amounts may differ somewhat by time or region, the amounts of under-  
11 reimbursements relative to automobile costs incurred are relatively consistent between  
12 time and region.

13 38. Defendants' low reimbursement rates were a frequent complaint of at least some  
14 of Defendants' delivery drivers, including Plaintiff, yet Defendants continued to  
15 reimburse at a rate much less than any reasonable approximation of delivery drivers'  
16 automobile expenses.

17 39. The net effect of Defendants' flawed reimbursement policy is that they willfully  
18 fail to pay minimum wage to their delivery drivers. Defendants thereby enjoys ill-gained  
19 profits at the expense of their employees.

### 20 **Collective and Class Allegations**

21 40. Plaintiff brings his FLSA claim as an "opt-in" collective action on behalf of  
22 similarly situated delivery drivers under 29 U.S.C. § 216(b).

23 41. The FLSA claim may be pursued by those who opt-in to this case under 29 U.S.C. §  
24 216(b).



1 42. Plaintiff, individually and on behalf of other similarly situated employees, seeks  
2 relief on a collective basis challenging Defendants' practice of failing to pay employees  
3 federal minimum wage. The number and identity of other plaintiffs yet to opt-in may be  
4 ascertained from Defendants' records, and potential class members may be notified of the  
5 pendency of this action via mail.

6 43. Plaintiff and all of Defendants' delivery drivers are similarly situated in that:

- 7 a. They have worked as delivery drivers for Defendants delivering pizza and  
8 other food items to Defendants' customers;
- 9 b. They have delivered pizza and other food items using automobiles not owned  
10 or maintained by Defendants;
- 11 c. Defendants required them to maintain these automobiles in a safe, legally-  
12 operable, and insured condition;
- 13 d. They incurred costs for automobile expenses while delivering pizzas and other  
14 food items for the primary benefit of Defendants;
- 15 e. They were subject to similar driving conditions, automobile expenses, delivery  
16 distances, and delivery frequencies;
- 17 f. They were subject to the same pay policies and practices of Defendants;
- 18 g. They were subject to the same delivery driver reimbursement policy that  
19 underestimates automobile expenses per mile, and thereby were systematically  
20 deprived of reasonably approximate reimbursements, resulting in wages below  
21 the federal minimum wage in some or all workweeks; and
- 22 h. They were paid at or near the applicable minimum wage before deducting  
23 unreimbursed business expenses.
- 24

1 44. Plaintiff brings his WMWA claim as a class action under Fed. R. Civ. P. 23 on  
2 behalf of all of Defendants' delivery drivers in Washington during the past three years.

3 45. Plaintiff's WMWA claim asserted in Count II satisfies the numerosity,  
4 commonality, typicality, adequacy, predominance and superiority requirements of Fed.  
5 R. Civ. P. 23.

6 46. The Class sought in Count II satisfies the numerosity standard as it consists of at  
7 least hundreds of persons who are geographically dispersed and, therefore, joinder of all  
8 Class members in a single action is impracticable.

9 47. Questions of fact and law common to the Class sought in Count II predominate  
10 over any questions affecting only individual members. The questions of law and fact  
11 common to the Class arising from Defendants' actions include, without limitation:

- 12 a. Whether they have worked as delivery drivers for Defendants delivering pizza  
13 and other food items;
- 14 b. Whether they have delivered pizza and other food items using automobiles not  
15 owned or maintained by Defendants;
- 16 c. Whether Defendants required them to maintain these automobiles in a safe,  
17 legally-operable, and insured condition;
- 18 d. Whether they incurred costs for automobile expenses while delivering pizza  
19 and other food items for the primary benefit of Defendants;
- 20 e. Whether they were subject to similar automobile expenses;
- 21 f. Whether they were subject to similar pay rates;
- 22 g. Whether they were subject to the same policy of failing to reimburse for  
23 automobile expenses; and

1 h. Whether Defendants' pay and reimbursement policies resulted in wages below  
2 the Washington minimum wage in some or all workweeks.

3 48. The questions set forth above predominate over any questions affecting only  
4 individual persons, and a class action is superior with respect to considerations of  
5 consistency, economy, efficiency, fairness, and equity to other available methods for the  
6 fair and efficient adjudication of the state law claim.

7 49. Plaintiff's claim is typical of those of the Class sought in Count II in that:

- 8 a. They have worked as delivery drivers for Defendants delivering pizza and  
9 other food items to Defendants' customers;
- 10 b. They have delivered pizza and other food items using automobiles not  
11 owned or maintained by Defendants;
- 12 c. Defendants required them to maintain these automobiles in a safe, legally-  
13 operable, and insured condition;
- 14 d. They incurred costs for automobile expenses while delivering pizzas and  
15 other food items for the primary benefit of Defendants;
- 16 e. They were subject to similar driving conditions, automobile expenses,  
17 delivery distances, and delivery frequencies;
- 18 f. They were subject to the same pay policies and practices of Defendants;
- 19 g. They were subject to the same delivery driver reimbursement policy that  
20 underestimates automobile expenses per mile, and thereby were  
21 systematically deprived of reasonably approximate reimbursements,  
22 resulting in wages below the Washington minimum wage in some or all  
23 workweeks; and

1 h. They were paid at or near Washington's minimum wage before deducting  
2 unreimbursed business expenses.

3 50. Plaintiff is an adequate representative of the Class sought in Count II because he is  
4 a member of that Class and his interest does not conflict with the interest of the members  
5 of the Class he seeks to represent. The interests of the members of the Class sought in  
6 Count II will be fairly and adequately protected by Plaintiff and the undersigned counsel,  
7 who have extensive experience prosecuting complex wage and hour class action  
8 litigation.

9 51. Maintenance of the claim asserted in Count II as a class action is superior to other  
10 available methods for fairly and efficiently adjudicating the controversy as members of  
11 the Class have little interest in individually controlling the prosecution of separate class  
12 actions, no other litigation is pending over the same controversy, it is desirable to  
13 concentrate the litigation in this Court due to the relatively small recoveries per member  
14 of the Class, and there are no material difficulties impairing the management of a class  
15 action.

16 52. It would be impracticable and undesirable for each member of the Class sought in  
17 Count II who suffered harm to bring a separate action. In addition, the maintenance of  
18 separate actions would place a substantial and unnecessary burden on the courts and  
19 could result in inconsistent adjudications, while a single class action can determine, with  
20 judicial economy, the rights of all Class members.

21 **COUNT I: VIOLATION OF THE FAIR LABOR STANDARDS ACT OF 1938**

22 53. Plaintiff reasserts and re-alleges the allegations set forth above.

23 54. At all relevant times herein, Plaintiff has been entitled to the rights, protections,  
24 and benefits provided under the FLSA, 29 U.S.C. §§ 201, *et seq.*

1 55. Plaintiff and all Defendants' other delivery drivers are "employees" within the  
2 scope and meaning of the FLSA, 29 U.S.C. § 203(e).

3 56. Defendants are "employers" of Plaintiff and their other delivery drivers within the  
4 scope and meaning of the FLSA, 29 U.S.C. § 203(d).

5 57. Section 13 of the FLSA, codified at 29 U.S.C. § 213, exempts certain categories of  
6 employees from federal minimum wage obligations. None of the FLSA exemptions apply  
7 to Plaintiff or other similarly situated delivery drivers.

8 58. The FLSA regulates, among other things, the payment of minimum wage by  
9 employers whose employees are engaged in interstate commerce, or engaged in the  
10 production of goods for commerce, or employed in an enterprise engaged in commerce  
11 or in the production of goods for commerce. 29 U.S.C. §206(a).

12 59. Defendants are subject to the FLSA's minimum wage requirements because they  
13 are an enterprise engaged in interstate commerce and their employees are engaged in  
14 commerce.

15 60. Under Section 6 of the FLSA, codified at 29 U.S.C. § 206, employees have been  
16 entitled to be compensated at a rate of at least \$7.25 per hour since July 24, 2009.

17 61. As alleged herein, Defendants have, and continue to, uniformly reimburse  
18 delivery drivers less than the reasonably approximate amount of their automobile  
19 expenses to such an extent that it diminishes these employees' wages beneath the federal  
20 minimum wage.

21 62. Defendants knew, or showed reckless disregard for whether, their pay and  
22 reimbursement policies, practices and methodology result in failure to compensate  
23 delivery drivers at the federal minimum wage.

1 63. Defendants, pursuant to their policy and practice, violated the FLSA by failing to  
2 pay federal minimum wage to Plaintiff and other similarly situated delivery drivers.

3 64. Plaintiff and all similarly situated delivery drivers are victims of a uniform and  
4 employer-based compensation and reimbursement policy. This uniform policy, in  
5 violation of the FLSA, has been applied, and continues to be applied, to all delivery  
6 driver employees in Defendants' stores.

7 65. Plaintiff and all similarly situated employees are entitled to damages equal to the  
8 minimum wage minus actual wages received after deducting reasonably approximated  
9 automobile expenses within three years from the date each Plaintiff joins this case, plus  
10 periods of equitable tolling, because Defendants acted willfully and knew, or showed  
11 reckless disregard for, whether their conduct was unlawful.

12 66. Defendants have acted neither in good faith nor with reasonable grounds to  
13 believe that their actions and omissions were not a violation of the FLSA, and as a result,  
14 Plaintiff and other similarly situated employees are entitled to recover an award of  
15 liquidated damages in an amount equal to the amount of unpaid minimum wages under  
16 29 U.S.C. § 216(b). Alternatively, should the Court find that Defendants acted with good  
17 faith and reasonable grounds to believe their actions and omissions were not a violation,  
18 then Plaintiff and all similarly situated employees are entitled to an award of  
19 prejudgment interest at the applicable legal rate.

20 67. As a result of the aforesaid willful violations of the FLSA's minimum wage  
21 provisions, minimum wage compensation has been unlawfully withheld by Defendants  
22 from Plaintiff and all similarly situated employees. Accordingly, Defendants are liable  
23 under 29 U.S.C. § 216(b), together with an additional amount as liquidated damages, pre-  
24 judgment and post-judgment interest, reasonable attorneys' fees, and costs of this action.

1 WHEREFORE, Plaintiff and all similarly situated delivery drivers demand judgment  
2 against Defendants and request: (1) compensatory damages; (2) liquidated damages; (3)  
3 attorneys' fees and costs as allowed by Section 16(b) of the FLSA; (4) pre-judgment and  
4 post-judgment interest as provided by law; and (5) such other relief as the Court deems  
5 fair and equitable.

6 **Count II: Violation of the Washington Minimum Wage Act**

7 68. Plaintiff reasserts and re-alleges the allegations set forth above.

8 69. At all relevant times herein, Plaintiff and the Class have been entitled to the rights,  
9 protections, and benefits provided under the WMWA, Wash. Rev. Code § 49.46, et seq.

10 70. During all times relevant to this action, Defendants were the "employers" of  
11 Plaintiff and the Class within the meaning of the WMWA. Wash. Rev. Code §49.46.010(4).

12 71. During all times relevant to this action, Plaintiff and the Class were Defendants'  
13 "employees" within the meaning of the WMWA. Was. Rev. Code § 49.46.010(3).

14 72. The unpaid wages at issue in this litigation are "wages" within the meaning of the  
15 WMWA. Wash. Rev. Code § 49.46.010(7).

16 73. The WMWA exempts certain categories of employees from Washington's  
17 minimum wage and other obligations, none of which apply to Plaintiff or the Class.

18 74. The WMWA regulates, among other things, the payment of minimum wage by  
19 employers who employ any person in Washington, subject to limited exemptions not  
20 applicable herein. Wash. Rev. Code § 49.46.020.

21 75. Under the WMWA, employees were entitled to be compensated at an hourly rate  
22 of \$9.47 in 2015 and 2016, \$11.00 in 2017, and \$11.50 in 2018. *Id.*

23 76. Defendants, pursuant to their policy and practice, violated the WMWA by refusing  
24 and failing to pay Plaintiff and the Class Washington's minimum wage. *Id.*

1 77. Plaintiff and the Class are victims of a uniform and employer-based compensation  
2 policy. On information and belief, this uniform policy, in violation of the WMWA, has  
3 been applied, and continues to be applied, to Plaintiff and all other Class members in  
4 Defendants' other Domino's Pizza stores in Washington.

5 78. Plaintiff and the Class are entitled to damages equal to the difference between the  
6 minimum wage and actual wages received after deduction for job-related expenses  
7 within the three years preceding the filing of the original Complaint, plus periods of  
8 equitable tolling. Wash. Rev. Code § 49.46.090(1).

9 79. Plaintiff and the Class are entitled to an award of pre-judgment and post-judgment  
10 interest at the applicable legal rate.

11 80. Defendants are liable for Plaintiff's costs and reasonable attorney's fees incurred in  
12 this action. *Id.*

13 WHEREFORE, on Count II of this Complaint, Plaintiff and the Class demand  
14 judgment against Defendants and pray for: (1) compensatory damages; (2) attorneys' fees  
15 and costs of litigation as allowed by Wash. Rev. Code §§ 49.46.090; (3) pre-judgment and  
16 post judgment interest as provided by law; and (4) such other relief as the Court deems  
17 fair and equitable.

18 **Demand for Jury Trial**

19 Plaintiff hereby requests a trial by jury of all issues triable by jury.

20 Dated: March 7, 2018

Respectfully submitted,



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9  
10 **ATTORNEYS FOR PLAINTIFF**