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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **FOR THE COUNTY OF LOS ANGELES-UNLIMITED JURISDICTION**

19 STEPAN MEKHITARIAN, an individual, on)
20 behalf of all others similarly situated,)

21 Plaintiff,)

22 vs.)

23 DELOITTE & TOUCHE (ICS), LLC, a)
24 Delaware Limited Liability Company; and)
25 DELOITTE TAX, LLP, a Delaware Limited)
26 Liability Partnership; and DOES 1)
27 THROUGH 50 inclusive,)

28 Defendants.)

Case No.:

CLASS ACTION

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

1. **FAILURE TO PAY OVERTIME
COMPENSATION IN VIOLATION
OF CALIFORNIA LABOR CODE §
1194;**
2. **CLAIM FOR STATUTORY
WAITING TIME PENALTIES FOR
FAILURE TO PAY WAGES
PURSUANT TO CALIFORNIA
LABOR CODE §203; and**
3. **UNLAWFUL BUSINESS
PRACTICES IN VIOLATION OF
CALIFORNIA BUSINESS &
PROFESSIONS CODE §§17200, ET
SEQ..**

1 Plaintiff STEPAN MEKHITARIAN (“Plaintiff”), individually and on behalf of all other
2 similarly situated individuals, alleges as follows against the above-named defendants:

3 **I.**
4 **THE PARTIES AND VENUE**

5 1. **The Named Plaintiff.** The Plaintiff is an individual over the age of 18
6 years. Plaintiff was employed by the above-named defendants from on or about May 15, 2002
7 through on or about January 15, 2005, and held the positions of a Tax Associate, or as a Tax
8 Senior throughout his employment with defendants.
9

10 2. **Defendants.**

11 (a) Plaintiff is informed and believes and thereon alleges, that defendant DELOITTE
12 & TOUCHE (ICS), LLC, (“DELOITTE & TOUCHE”) was, and is, a limited liability company
13 organized under the laws of the State of Delaware.
14

15 (b) Plaintiff is informed and believes and thereon alleges, that defendant DELOITTE
16 TAX, LLP (“DELOITTE TAX”) was, and is, a limited liability partnership organized under the
17 laws of the State of Delaware.

18 (c) Hereinafter in the Complaint, unless otherwise specified, reference to
19 DELOITTE & TOUCHE, DELOITTE TAX, LLP, Defendant or Defendants shall refer to all
20 Defendants, including Does 1 through 50 and each of them.

21 (d) Plaintiff is unaware of the true names and capacities of Defendants sued herein as
22 DOES 1 through 50, inclusive, and for that reason sues said Defendants by such fictitious names.
23 Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously named
24 Defendants is responsible in some manner for, and proximately caused, the harm and damages
25 alleged herein below. Plaintiff will file and serve an amendment to this Complaint alleging the
26 true names and capacities of said fictitiously named Defendants if and when such true names and
27 capacities become known to Plaintiff.
28

1 (e) Plaintiff is informed and believes and thereon alleges, that each of the Defendants
2 named herein acted as the employee, agent, partner, alter-ego and/or joint venturer of each of the
3 other Defendants named herein, and, in doing the acts and in carrying out the wrongful conduct
4 alleged herein, each of said Defendants acted within the scope of said relationship and with the
5 permission, consent and ratification of each of the other Defendants named herein.

6 (f) At all times mentioned herein, one of the primary businesses of DELOITTE &
7 TOUCHE, DELOITTE TAX and Defendants DOES 1 through 50 was the provision of
8 accounting services for their clients, including but not limited to, preparation of tax returns and
9 other financial documents. Said business was open to the general public in numerous counties of
10 the State of California, including the County of Los Angeles.

11 3. **Venue.** Throughout his employment with Defendants, Plaintiff was
12 employed at Defendants' offices located at 350 S. Grand Ave., Ste. 200, Los Angeles, County of
13 Los Angeles, California 90071.

14
15 **II.**
16 **CLASS ACTION ALLEGATIONS**

17 4. Plaintiff brings this action, pursuant to California Code of Civil Procedure section
18 382, against all Defendants on his behalf and all persons similarly situated in the State of
19 California. The classes that Plaintiff represents are comprised of:

20 (a) all persons who were employed in California by Defendants as Tax Associates during
21 the relevant statutory period, who were paid on a salaried basis and worked in excess of eight (8)
22 hours per day and/or in excess of forty (40) hours in one or more workweeks; and
23

24 (b) all persons who were employed in California by Defendants as Tax Seniors during the
25 relevant statutory period, who were paid on a salaried basis and who worked in excess of eight
26 (8) hours per day and/or in excess of forty (40) hours in one or more workweeks.
27
28

1 5. All members of the putative classes described above have had their rights under
2 the California Labor Code, and California Business & Professions Code violated by Defendants'
3 employment practices.

4 6. **Ascertainable Class.** The proposed plaintiff class described at Paragraph 4,
5 above, is ascertainable. Members of the plaintiff class can be readily identified from personnel
6 files and computer databases maintained by Defendants and from payroll and other records
7 maintained by the Defendants. The litigation of the questions of fact and law involved in this
8 action will resolve the rights of all members of the class and hence will have a binding effect on
9 all class members. The class is numerous and joinder of all class members is impracticable due
10 to both a reluctance of class members to sue their current or former employer and relatively
11 small monetary recovery for each class member in comparison to the costs associated with
12 separate litigation.

13 7. **Community of Interest.** The proposed class has a well-defined community of
14 interest in the questions of fact and law to be litigated. The common questions of law and fact
15 are predominant with respect to the liability issues, relief issues and anticipated affirmative
16 defenses. The named plaintiff has claims typical of members of both classes. The named
17 plaintiff can fairly and adequately represent and protect the interests of the classes in that there is
18 no conflict between his interests and the interests of other class members. This action is not
19 collusive, the named plaintiff and his counsel have the resources to litigate this action, and
20 counsel have experience and ability required to prosecute this case as a class action.

21 8. **Superiority of Class Adjudication.** The certification of a class in this action is
22 superior to the litigation of a multitude of cases by members of the putative class. Class
23 adjudication will conserve judicial resources and will avoid the possibility of inconsistent
24

1 rulings. Moreover, there are class members who are unlikely to join or bring an action due to,
2 among other reasons, their reluctance to sue their current employer and/or their inability to afford
3 a separate action. Finally, equity dictates that all persons who stand to benefit from the relief
4 sought herein should be subject to the lawsuit and hence subject to an order spreading the costs
5 of litigation among the class members in relationship to the benefits received.
6

7 **DEFENDANTS' UNLAWFUL POLICIES AND PRACTICES**

8 9. Throughout the statutory periods alleged herein, Industrial Welfare Commission,
9 Wage Order No. 4-2001, "Professional, Technical, Clerical, Mechanical and Similar
10 Occupations", as amended, contained in Title 8 of the California Code of Regulations
11 (hereinafter "Wage Order"), applied to Plaintiff and to each class member in his or her
12 employment with Defendants.
13

14 10. Throughout the statutory periods alleged herein, neither Plaintiff nor any other
15 person employed by Defendants in the State of California in the position of a Tax Associate or a
16 Tax Senior was exempt from the overtime provisions of California law. Defendants, however,
17 followed a policy and practice of classifying and treating their Tax Associates and their Tax
18 Seniors employed in California, including Plaintiff and the other class members similarly
19 situated, as "exempt" employees as that term is defined in the Wage Order, despite the fact that
20 Defendants failed to employ Plaintiff and the class members primarily in an administrative,
21 executive or professional capacity as those terms are defined by the Wage Order.
22
23

24 11. Throughout the statutory periods alleged herein, Defendants required their Tax
25 Associates and Tax Seniors employed in California, as a condition of maintaining their
26 employment with Defendants, to regularly work numerous overtime hours in excess of eight (8)
27 hours per day and/or forty (40) hours per week. Although Defendants should have compensated
28 said Tax Associates and Tax Seniors at the rate of one and one-half (1½) times their regular

1 hourly wage for all hours worked in excess of eight (8) hours per workday or forty (40) hours per
2 workweek and double their regular hourly wage for all hours worked in excess of twelve (12)
3 hours per workday or in excess of eight (8) hours on the seventh workday of the week during the
4 alleged statutory periods, they were instead compensated by a straight annual salary, regardless
5 of the number of hours worked.
6

7 **III.**
8 **FIRST CAUSE OF ACTION**
9 **(Class Action Against All Defendants by Plaintiff, on Behalf of All Other Tax Associates**
10 **Similarly Situated, For Failure to Pay Overtime Wages)**

11 12. Plaintiff incorporates by reference each and every allegation set forth in
12 paragraphs 1 through 11, as if set forth in full herein.

13 13. At all relevant times herein, California Labor Code section 1194 and the Wage
14 Order applied to Plaintiff and to each class member in his or her employment, and provided for
15 payment of an overtime premium of not less than one and one-half (1½) times the employee's
16 regular rate of pay for all hours worked in excess of eight (8) hours per workday or forty (40)
17 hours per workweek, and two (2) times the employee's regular rate of pay for all hours worked
18 in excess of twelve (12) hours per workday or in excess of eight (8) hours on the seventh
19 workday of the week.
20

21 14. Defendants possess or should possess the exact information regarding the number
22 of hours worked by Plaintiff and each class member for the relevant statutory period.

23 15. Plaintiff brings this action, pursuant to California Code of Civil Procedure section
24 382, against all Defendants on behalf of himself and all persons similarly situated in California.
25 The class which Plaintiff represents is comprised of all persons who were employed in California
26 by Defendants as Tax Associates during the relevant statutory period, who were paid on a
27 salaried basis and worked in excess of eight (8) hours per day and/or in excess of forty (40) hours
28

1 in one or more workweeks. Plaintiff seeks against Defendants for each class member the balance
2 of all unpaid wages, with interest thereon, pursuant to California Labor Code section 1194 for
3 uncompensated overtime pay for the applicable statutory period.

4
5 16. As a direct and proximate result of Defendants' violation of the overtime
6 provisions of the California Labor Code section 1194 and the Wage Order, there is due and
7 owing to Plaintiff and to each class member overtime wages in an amount in excess of \$25,000
8 to be established at the time of trial.

9
10 17. Pursuant to California Labor Code section 1194, Plaintiff seeks on his behalf and
11 on behalf of each class member, reasonable attorney's fees and interest on unpaid wages, and
12 costs of suit.

13
14 **IV.**
15 **SECOND CAUSE OF ACTION**
16 **(Class Action Against All Defendants by Plaintiff, on Behalf of All Other Tax Seniors**
17 **Similarly Situated, For Failure to Pay Overtime Wages)**

18
19 18. Plaintiff incorporates by reference each and every allegation set forth in
20 paragraphs 1 through 11, as if set forth in full herein.

21
22 19. At all relevant times herein, California Labor Code section 1194 and the Wage
23 Order applied to Plaintiff and to each class member in his or her employment, and provided for
24 payment of an overtime premium of not less than one and one-half (1½) times the employee's
25 regular rate of pay for all hours worked in excess of eight (8) hours per workday or forty (40)
26 hours per workweek, and two (2) times the employee's regular rate of pay for all hours worked
27 in excess of twelve (12) hours per workday or in excess of eight (8) hours on the seventh
28 workday of the week.

29
30 20. Defendants possess, or should possess, the exact information regarding the
31 number of hours worked by Plaintiff and each class member for the relevant statutory period.

1 intentionally or willfully fails to pay all wages earned and due upon termination, as set forth
2 above, the affected employee is entitled to statutory waiting time penalties up to thirty (30) days
3 of wages under California Labor Code section 203.
4

5 26. Defendants intentionally and willfully failed to pay Plaintiff and each class
6 member who separated from, or was discharged by, Defendants the overtime premium owed to
7 them as required despite the fact that those wages were due and owing to said individuals.

8 27. At no time has Plaintiff or a class member who terminated their employment with
9 Defendants during the statutory period secreted or absented themselves or otherwise refused to
10 accept payment of wages earned and due to them upon termination. Plaintiff brings this action,
11 pursuant to California Code of Civil Procedure section 382, against all Defendants on his behalf
12 and on behalf of all persons similarly situated in California. The class which Plaintiff represents
13 is comprised of all Tax Associates and Tax Seniors who were employed in Defendants' business
14 locations in California during the statutory period, who were paid a salary and who worked
15 overtime during the statutory period, and who either quit or were discharged from Defendants'
16 employment.
17

18 28. Plaintiff seeks against Defendants for himself and for each class member the
19 statutory waiting time penalty under California Labor Code section 203. Defendants
20 intentionally and willfully failed to pay Plaintiff and each class member the overtime premium
21 required by the Wage Order. Thirty (30) days has expired since the end of Plaintiff's and each
22 class member's employment with Defendants. Therefore, Plaintiff seeks an award of the
23 statutory waiting time penalty from Defendants in the amount of thirty (30) days' wages for
24 Plaintiff and for each class member, with interest thereon.
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VI.
FOURTH CAUSE OF ACTION
(Class Action Against All Defendants by Plaintiff, on Behalf of All Other
Tax Associates and Tax Seniors Similarly Situated,
for Restitution of Overtime Wages and Injunctive
Relief for Unfair Business Practices
Pursuant to California Business & Professions
Code sections 17200, et seq.)

29. Plaintiff incorporates by reference each and every allegation set forth in paragraphs 1 through 11, 13 through 16 and 19 through 22 as if set forth in full herein.

30. Defendants' conduct as alleged above constitutes an unfair and unlawful business practice within the meaning of California Business & Professions Code sections 17200 and 17204. Plaintiff, on his own behalf and on behalf of all others similarly situated, seeks restitution and disgorgement from Defendants of premium overtime pay withheld from salaried Tax Associates and Tax Seniors who are or were employed in Defendants' business locations in California during the statutory period (four (4) years).

31. As a direct and proximate result of the unlawful and unfair conduct of Defendants, Plaintiff and the class members have suffered, and will continue to suffer, the loss of money owed to them in a sum as yet uncertain, but in excess of \$25,000.

32. Unless restrained Defendants will continue to commit the unfair and unlawful business practices alleged above. Plaintiff therefore seeks a preliminary and permanent injunction pursuant to California Business & Professions Code sections 17203 and 17204 to enjoin Defendants from committing such practices in the future

VII.
PRAYER

WHEREFORE, Plaintiff, and class members, pray for judgment against Defendants, and each of them, and DOES 1 through 50 as follows:

1 ON THE FIRST CAUSE OF ACTION:

- 2 a. For compensatory damages including, but not limited to, lost wages and overtime
- 3 compensation in excess of \$25,000.
- 4 b. For pre- and post-judgment interest.
- 5 c. For reasonable attorney's fees and costs pursuant to Labor Code section 1194(a).

6 ON THE SECOND CAUSE OF ACTION:

- 7 d. For compensatory damages including, but not limited to, lost wages and overtime
- 8 compensation in excess of \$25,000.
- 9 e. For pre- and post-judgment interest.
- 10 f. For reasonable attorney's fees and costs pursuant to Labor Code section 1194(a).

11 ON THE THIRD CAUSE OF ACTION:

- 12 g. For the statutory waiting time penalties pursuant to California Labor Code section
- 13 203.
- 14 h. For pre- and post-judgment interest.

15 ON THE FOURTH CAUSE OF ACTION:

- 16 i. For an order requiring Defendants to make full restitution of all money and other
- 17 property acquired by their violation of Business and Professions Code section 17200
- 18 et seq.
- 19 j. For pre- and post-judgment interest.

20 ON ALL CAUSES OF ACTION:

- 21 k. For costs and expenses in this action; and
- 22 l. Any other and further relief as the nature of the case may require, and, or that the
- 23 Court deems proper.

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1 DATED: December 11, 2006

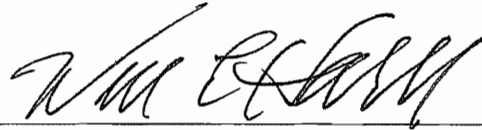
LAW OFFICES OF ARMOND MARCARIAN

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3 

4 By: _____

5 ARMOND MARCARIAN
6 Attorneys for Plaintiff Stepan Mekhitarian

7
8 HARRIS & KAUFMAN

9
10 

11 By: _____

12 WILLIAM E. HARRIS
13 Attorneys for Plaintiff Stepan Mekhitarian