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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 GOPI VEDACHALAM, on behalf of
himself and all others similarly situated,

12 Plaintiffs,

13 v.

14 TATA AMERICA INTERNATIONAL
15 CORPORATION, a New York
corporation; TATA CONSULTANCY
16 SERVICES, LTD, an Indian Corporation;
and TATA SONS, LTD, an Indian
17 Corporation.

18 Defendants.

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CLASS ACTION COMPLAINT FOR:

- (1) CONVERSION;
- (2) BREACH OF CONTRACT;
- (3) UNJUST ENRICHMENT;
- (4) EMPLOYEE REPAYMENT OF WAGES (CAL. LAB. CODE § 221);
- (5) WAITING TIME PENALTIES (CAL. LAB. CODE §§ 201-203);
- (6) RECORD-KEEPING VIOLATIONS (CAL. LAB. CODE §§ 226, 1174);
- (7) VESTED VACATION TIME AND PAY (CAL. LAB. CODE §§ 201-203, 218.5, 227.3);
- (8) UNLAWFUL BUSINESS PRACTICES (CAL. BUS. & PROF. CODE § 17200, et seq.)

DEMAND FOR JURY TRIAL

PRELIMINARY STATEMENT

Individual and representative Plaintiff Gopi Vedachalam, on behalf of himself and all others similarly situated, alleges as follows:

1. Gopi Vedachalam brings this class action on behalf of a class, and subclass, of employees of Tata Consultancy Services, Ltd. and Tata Sons, Ltd., Indian corporations headquartered in Mumbai, India, as well as their U.S. subsidiary, Tata America International Corporation (collectively referred to as TCS or Defendants). The class consists of all non-U.S.-citizen employees working for TCS during the period February 14, 2000 through the date of judgment in this action (the "National Employee Class"). The subclass consists of those members of the National Employee Class employed in California at any time from February 14, 2002 through the date of judgment in this action (the "California Employee Subclass").

2. Mr. Vedachalam alleges on behalf of himself and the National Class that TCS committed conversion and was unjustly enriched by illegally requiring all of its non-U.S.-citizen employees to endorse and sign over to TCS their federal and state tax refund checks. Vedachalam, on behalf of himself and the National Class Members, seeks damages, injunctive relief, and restitution of all unjust enrichment Defendants have enjoyed as a result of these practices.

3. Mr. Vedachalam alleges further on behalf of himself and the National Class that TCS breached its employment contracts with its non-U.S.-citizen employees by failing to pay these employees the gross wages that TCS promised in the employees' employment contracts. Vedachalam, on behalf of himself and the National Class Members, seeks damages, injunctive relief, and restitution of all unjust enrichment Defendants have enjoyed as a result of these practices.

4. Mr. Vedachalam alleges on behalf of himself and the California Subclass that by requiring that their tax refund checks to be signed over to the company, TCS unlawfully collected wages from its employees. Mr. Vedachalam further alleges that at least until 2005, TCS had an unlawful "use-it-or-lose-it" vacation policy, whereby the California Subclass members would forfeit vacation time that they earned but did not use.

1 5. Mr. Vedachalam, on behalf of himself and the California Subclass, seeks to
 2 recover wages that Defendants improperly required to be returned to TCS; vested vacation time,
 3 vacation pay and interest thereon; waiting time penalties; declaratory relief; injunctive and other
 4 equitable relief; and reasonable attorneys' fees and costs, under California Labor Code §§ 201-
 5 203, 218.5, 221, 226, 227.3, and 1174. Mr. Vedachalam, on behalf of himself and the California
 6 Subclass Members, also seeks injunctive relief and restitution of all unjust enrichment Defendants
 7 have enjoyed from their violations of California Labor Code under Business and Professions
 8 Code §§ 17200-17208.

JURISDICTION AND VENUE

10 6. This Court has subject matter jurisdiction over this action pursuant to 28
 11 U.S.C. § 1332, as recently amended by the Class Action Fairness Act, because the aggregate
 12 amount claimed by the individual members of the proposed National Class and California
 13 Subclass exceed \$5,000,000, exclusive of interest and costs. The National Employee Class
 14 exceeds 100 persons, and its members are citizens of India and other countries, and Tata America
 15 International is a citizen of New York. The California Subclass exceeds 100 persons, and the
 16 Subclass members are citizens of India and other countries who are residing in California, and
 17 Tata America International is a citizen of New York.

18 7. Personal jurisdiction over TCS is proper because it has purposefully
 19 availed itself of the privilege of conducting business activities within the State of California by
 20 employing workers within California, and selling its services within the State. TCS generally has
 21 maintained systematic and continuous business contacts with California.

22 8. Venue is proper in this district pursuant to 42 U.S.C. § 2000e5(f) and
 23 28 U.S.C. § 1391 (b) & (c). Many of the acts complained of herein occurred in this District and
 24 gave rise to the claims alleged. TCS conducts business in this District and employs hundreds of
 25 workers within the State of California.

THE PARTIES

27 9. Plaintiff Gopi Vedachalam is a citizen of India, legally working and living
 28 in California under an L-1 visa. (The L-1 visa is used to transfer an employee to a US parent,

1 affiliate, subsidiary, or branch office from a related foreign company.) In 1997, Mr. Vedachalam
2 began working for Tata Consultancy Services in Bangalore, India. In April 2000, Tata
3 Consultancy Services "deputed" Mr. Vedachalam, sending him to work for Tata America
4 International in the United States. Since April 2000, Mr. Vedachalam has worked in the United
5 States for Tata America International. From 2000 to 2003, Vedachalam worked in Hayward,
6 California, as a TCS project manager for Target; since 2003, he has worked as a TCS project
7 manager for 21st Century Insurance in Woodland Hills, California.

8 10. Defendant Tata America International Corporation ("Tata America"), a
9 U.S. subsidiary of Tata Consultancy Services, Ltd., is, and at all times mentioned herein was, a
10 New York corporation operating in the San Francisco Bay Area as well as throughout the State of
11 California and the United States. Tata America's principal place of business is in New York,
12 New York.

13 11. Defendant Tata Consultancy Services, Ltd. ("TCS") is an Indian
14 corporation with its principal place of business in Mumbai, India. TCS is wholly owned by
15 Defendant Tata Sons, Ltd., an Indian corporation.

16 12. Defendant Tata Sons, Ltd., is an Indian corporation with its principal place
17 of business in Mumbai, India. Tata Sons is the parent company of TCS.

18 **CLASS ALLEGATIONS**

19 13. Vedachalam brings this class action pursuant to Fed. R. Civ. P. 23(a),
20 (b)(2), and (b)(3), on behalf of: (1) a "National Employee Class," which includes all non-U.S.-
21 citizen employees of TCS working in the United States at any time during the period of
22 February 14, 2000 through the date of judgment in this action; and (2) a "California Employee
23 Subclass," which includes all non-U.S.-citizen employees of TCS working in California at any
24 time during the period February 14, 2002 through the date of judgment in this action.

25 A. **National Employee Class**

26 14. Plaintiff Vedachalam is a member of, and seeks to represent, the National
27 Employee Class.

28 15. The members of the National Employee Class identified herein are so

1 numerous that joinder of all members is impracticable. At the end of 2005, Defendants employed
2 thousands of non-U.S.-citizen employees in the United States. Although the precise number of
3 employees affected by the illegal practices alleged herein is currently unknown, it is far greater
4 than can be addressed feasibly through joinder. The precise number is ascertainable from
5 Defendants' records.

6 16. There are many questions of law and fact common to the National
7 Employee Class, and these questions predominate over any questions affecting only individual
8 members. Common questions of fact or law include, among others: (1) whether Plaintiff and the
9 proposed class have a right to their individual tax refund checks; (2) whether Defendants
10 unlawfully compelled the Plaintiff and the proposed class to turn over those refund checks to
11 TCS; (3) whether Defendants exerted an act of ownership or dominion over the personal property
12 of the Plaintiff and the proposed Class; (4) whether, by signing over their refund checks to TCS,
13 Plaintiff and the proposed Class conferred a benefit to Defendants; (5) whether Defendants were
14 aware of the benefit they received; (6) whether Defendants have retained this benefit under
15 circumstances that make it inequitable for Defendants to retain the benefit without the payment of
16 its value; (7) whether Defendants had a systematic plan to breach the contracts of their non-U.S.-
17 citizen employees; and (8) whether injunctive relief and other equitable remedies (including
18 restitution) and compensatory and punitive damages are warranted for the National Employee
19 Class.

20 17. The claims of Proposed Representative Plaintiff Vedachalam are typical of
21 the claims of the National Employee Class.

22 18. Plaintiff Vedachalam will fairly and adequately represent and protect the
23 interests of the members of the National Employee Class. Plaintiff's counsel is competent and
24 highly experienced in complex class actions.

25 19. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
26 because TCS has acted and/or refused to act on grounds generally applicable to the National
27 Employee Class, making appropriate declaratory and injunctive relief with respect to Plaintiff
28 Vedachalam and the National Employee Class as a whole. The law entitles members of the

1 National Employee Class to injunctive relief, including restitution of the profits Defendants have
2 unlawfully acquired and retained through their illegal acts.

3 20. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3)
4 because common questions of fact and law predominate over any individual questions affecting
5 members of the National Employee Class, and because a class action is superior to other available
6 methods for the fair and efficient adjudication of this litigation. The members of National
7 Employee Class have been damaged and are entitled to recovery as a result of Defendants'
8 common, uniform, and illegal policies and practices. Defendants have computerized payroll and
9 personnel data that will make calculation of damages for specific members of the National
10 Employee Class relatively straightforward.

11 **B. California Employee Subclass**

12 21. Plaintiff Vedachalam is a member of, and seeks to represent, the California
13 Employee Subclass.

14 22. The members of the California Employee Subclass are so numerous that
15 joinder of all members is impracticable. At the end of 2005, Defendants employed hundreds of
16 non-U.S.-citizen employees throughout California. Although the precise number of California
17 employees affected by the illegal practices alleged herein is currently unknown, it is far greater
18 than can be feasibly addressed through joinder. The precise number is easily ascertainable from
19 Defendants' records.

20 23. There are many questions of law and fact common to the proposed
21 California Employee Subclass, and these common questions predominate over any questions
22 affecting only individual members. Common questions of fact or law include, among others:
23 (1) whether Defendants compelled its California employees to repay wages already earned;
24 (2) whether Defendants refused to reimburse its California employees for vested vacation time;
25 (3) whether Defendants failed adequately to pay its dismissed California employees within 72
26 hours of those class members' terminations from the company; (4) whether Defendants willfully
27 failed to provide its California employees with accurate, itemized statements of their wages;
28 (5) whether the law entitles Plaintiff and the proposed Subclass to restitution of all unjust

1 enrichment Defendants have enjoyed from Defendants' alleged violations of the California Labor
2 Code.

3 24. The claims of Proposed Representative Plaintiff Vedachalam are typical of
4 the claims of the California Employee Subclass.

5 25. Plaintiff Vedachalam will fairly and adequately represent and protect the
6 interests of the members of the California Employee Subclass. Plaintiff's counsel is competent
7 and highly experienced in complex class actions.

8 26. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
9 because Defendants have acted and/or refused to act on grounds generally applicable to the
10 California Employee Subclass, making appropriate declaratory and injunctive relief with respect
11 to Plaintiff Vedachalam, and the proposed California Employee Subclass as a whole. The law
12 entitles the members of the California Employee Subclass to injunctive relief to end Defendants'
13 common, uniform, and illegal practices, including restitution of the profits Defendants have
14 acquired through its illegal acts.

15 27. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3)
16 because common questions of fact and law predominate over any questions affecting only
17 individual members of the proposed California Employee Subclass, and because a class action is
18 superior to other available methods for the fair and efficient adjudication of this litigation.

19 Defendants' practices have damaged the members of the proposed California Employee Subclass,
20 and the law entitles the proposed California Employee Subclass to recovery as a result of
21 Defendants' common, uniform, and illegal practices. Defendants have computerized payroll and
22 personnel data that will make calculation of damages for specific members of the proposed
23 California Employee Subclass relatively straightforward.

24 **STATEMENT OF FACTS APPLICABLE TO ALL CLAIMS**

25 **A. TCS's Deputation of Its Employees to the United States.**

26 28. Most TCS employees in the United States are non-U.S. citizens. Most of
27 these individuals have worked for TCS in India and are "deputed" to work in the United States,
28 meaning that the employees continue to work for TCS, but are stationed in the United States.

1 29. Each employee signs a Deputation agreement that outlines the terms and
2 conditions of his or her employment in the United States.

3 30. These employees are granted visas, which allow the employees to work
4 and live in the United States.

5 31. The Deputation agreements state that the employee's gross amount of
6 compensation shall be includable as earnings in the United States and reported to the U.S. Internal
7 Revenue Service.

8 32. The Deputation Agreements state that "[i]n addition to the compensation
9 and benefits you currently receive and will continue to receive in India while on Deputation, you
10 shall receive additional compensation in the United States in the gross amount of" a certain
11 number of dollars.

12 33. While in the United States, these employees are paid by TCS, Ltd., through
13 Tata America International.

14 **B. TCS's Operations**

15 34. Plaintiff has been employed by Defendant TCS since 1997.

16 35. TCS is the information technologies outsourcing/consulting arm of the
17 Indian conglomerate Tata Group. Tata America is a U.S. subsidiary of TCS. Tata America has
18 branch offices throughout the United States, including, but not limited to, Arizona, California,
19 Connecticut, Colorado, Florida, Illinois, Indiana, Kentucky, Maryland, Minnesota, Michigan,
20 New York, New Jersey, Texas, Washington, Wisconsin.

21 36. On information and belief, Plaintiff alleges that Tata America and TCS
22 employ most of the National Employee Class as consultants that work on-site with other U.S.
23 businesses.

24 **CLASS ALLEGATIONS**

25 **I. NATIONAL EMPLOYEE CLASS**

26 37. At least until July 2005, Defendants required that their non-U.S.-citizen
27 employees sign power of attorney agreements that delegate an outside agency to calculate and
28 submit each employee's tax returns to the applicable state and federal tax authorities.

1 38. Each year that Plaintiff worked for Defendants in the United States, he has
2 had to sign power-of-attorney agreements, delegating an outside agency to calculate and submit
3 his state and federal tax returns.

4 39. On information and belief, Plaintiff alleges that during each year of the
5 class period, each National Employee Class member received a state and federal tax refund
6 check, representing the amount of taxes they had overpaid the state and federal tax agencies.

7 40. Each year that Plaintiff worked for Defendants in the United States, the
8 Internal Revenue Service and California Franchise Tax Board sent to Defendants checks made
9 out to Plaintiff representing the amount of tax he overpaid throughout the preceding year. Each
10 year that Plaintiff Gopi Vedachalam has worked for Defendants in the United States, Defendants
11 have required him to endorse his tax refund checks and send those checks back to the company.
12 In 2004, for example, TCS sent Vedachalam an "Urgent Memo" that stated: "Thank you very
13 much for your excellent support in assisting us to file the tax return on your behalf for the year
14 [current year]. We are now forwarding you the tax refund check received from the Tax
15 Authority. Please sign on the reverse of the cheque and return it to the below mentioned address.
16 Your assistance in the [sic] regard will be highly appreciated."

17 41. On information and belief, Plaintiff alleges that when Defendants received
18 these tax refund checks from the respective tax agencies, made out to each of their non-U.S.-
19 citizen employees, they sent their non-U.S.-citizen employees an "Urgent Memo," demanding
20 that the employees endorse the checks and send them back to Defendants.

21 42. On information and belief, Plaintiff alleges that Defendants have retained
22 the proceeds from the National Employee Class members' tax refund checks. Defendants have
23 not repaid these funds to their employees.

24 43. On information and belief, Plaintiff alleges that Defendants have taken the
25 proceeds from Plaintiff's state and federal tax refunds for each year that Vedachalam has worked
26 in the United States. Defendants have never repaid Vedachalam the tax refund money that they
27 required Plaintiff to sign over to them.

28 44. On information and belief, Plaintiff alleges that Defendants have received

1 as much as \$5,000 per year, per employee as a result of Defendants' requirement that each
2 National Employee Class member sign over his or her tax refund checks to Defendants.

3 45. Plaintiff estimates that Defendants have retained nearly \$25,000 in federal
4 and state tax refunds that rightfully belong to him.

5 46. On information and belief, Plaintiff alleges further that Defendants have
6 failed to comply with the terms of their employment contracts with their employees by failing to
7 pay the full, additional compensation in the United States as promised in these agreements.

8 **II. CALIFORNIA EMPLOYEE SUBCLASS**

9 47. By requiring that their non-U.S.-citizen employees sign over their tax
10 refund checks to the company, Defendants require that these employees repay wages those
11 employees had previously earned.

12 48. Plaintiff estimates that Defendants have required him to return to
13 Defendants nearly \$25,000 in earned wages. On information and belief, Plaintiff alleges that
14 Defendants have required each member of the California Employee Subclass to return similar
15 amounts to Defendants.

16 49. TCS gives both U.S. citizen and non-U.S.-citizen employees 15 vacation
17 days a year. All employees can carry over only five unused days to the following year. At least
18 until 2005, although U.S. citizen employees could cash-in unused vacation days in excess of the
19 five days carried over, non-U.S.-citizen employees could not cash in their unused vacation days
20 and were required to forfeit any unused vacation days beyond the five carried over without any
21 compensation.

22 50. Defendants have never paid Plaintiff Vedachalam for vacation days he has
23 forfeited because he had greater than five vacation days remaining at the end of the year.

24 51. On information and belief, Plaintiff alleges that Defendants have failed
25 adequately to compensate their dismissed California employees for all of the vacation time they
26 earned but did not use.

27 52. While working in the United States for Defendants, Mr. Vedachalam has
28 not been provided with accurate wage statements. The statements TCS provided misstated his

1 gross income and net income because the statements did not account for the wages Defendants
2 required Mr. Vedachalam to return to them. Moreover, Defendants regularly changed the number
3 of exemptions listed on Plaintiffs' wage statements without informing Plaintiff of the change, the
4 reasons for the change, or its consequences. On information and belief, Plaintiff alleges that other
5 members of the California Employee Subclass similarly did not receive accurate, itemized wage
6 statements.

7 53. By not accounting for the tax refunds that TCS required its employees
8 return to TCS, TCS has willfully refused to provide its employees with accurate wage statements.

9 **FIRST CLAIM FOR RELIEF**
10 **CONVERSION**
11 **(by Plaintiff on behalf of himself and the National Employee Class)**

12 54. Plaintiff hereby incorporates by reference the allegations contained in all
13 preceding paragraphs of this complaint.

14 55. Plaintiff brings this claim on behalf of himself and the proposed National
15 Employee Class.

16 56. The class period for the proposed National Employee Class is from
17 February 14, 2000 through the date of judgment.

18 57. The tax refund checks TCS required its employees to return to the
19 company represent the difference between the amount of the employees' earnings that was
20 withheld for taxes and the amount of taxes actually owed. Plaintiff and National Employee Class
21 members, therefore, have the right to receive and retain their federal and state income tax refund
22 checks.

23 58. By requiring that each class member sign over their state and federal
24 income tax refund check to Defendants, Defendants have intentionally taken dominion and
25 control over Plaintiff and National Employee Class members' tax refund checks.

26 59. Defendants' actions seriously interfere with Plaintiff's and proposed
27 National Class Members' rights to control and use their federal and state income tax refund
28 checks.

60. Defendants' actions have caused Plaintiff and the proposed National Class

1 Members significant financial injury. Defendants' alleged conversion of Plaintiff's and proposed
2 National Class Members' state and federal income tax refund checks has deprived each class
3 member of as much as thousands of dollars per year.

4 61. Defendants' conduct as alleged above constitutes conversion, as articulated
5 by the Restatement (Second) of Torts, the laws of New York (Tata America's state of
6 incorporation and principal place of business), and, in the alternative, the laws of California.

7 62. Plaintiff requests relief as provided in the Prayer for Relief below.

8 **SECOND CLAIM FOR RELIEF**
9 **BREACH OF CONTRACT—NATIONAL EMPLOYEE CLASS**
10 **(by Plaintiff on behalf of himself and the National Employee Class)**

11 63. Plaintiff hereby incorporates by reference the allegations contained in all
12 preceding paragraphs of this complaint.

13 64. Plaintiff brings this claim on behalf of himself and the proposed National
14 Employee Class.

15 65. The class period for the proposed National Employee Class is from
16 February 14, 2000 through the date of judgment.

17 66. By failing to pay National Class Members the amount of additional
18 compensation provided in their Deputation Agreements, Defendants breached those contracts.

19 67. Defendants' breach of the terms of their contracts with the members of the
20 National Employee Class entitles those members to restitution and recovery of all damages
21 caused by Defendants' nonperformance.

22 68. It is inequitable for Defendants to retain the funds promised to the
23 proposed National Employee Class Members.

24 69. Defendants' conduct as alleged above establishes a claim for breach of
25 contract, as articulated by the Restatement (Second) of Contracts, the laws of New York (Tata
26 America's state of incorporation and principal place of business) and, in the alternative, the laws
27 of California.

28 70. Plaintiff requests relief as provided in the Prayer for Relief below.

1 **THIRD CLAIM FOR RELIEF**
2 **UNJUST ENRICHMENT—NATIONAL EMPLOYEE CLASS**
3 **(by Plaintiff on behalf of himself and the National Employee Class)**

4 71. Plaintiff hereby incorporates by reference the allegations contained in all
5 preceding paragraphs of this complaint.

6 72. Plaintiff brings this claim on behalf of himself and the proposed National
7 Employee Class.

8 73. The class period for the proposed National Employee Class is from
9 February 14, 2000 through the date of judgment.

10 74. By endorsing and sending their federal and state income tax refund checks
11 to Defendants, each proposed National Employee Class member conferred a substantial benefit
12 upon Defendants each year, worth as much as thousands of dollars per Class member.

13 75. By requiring each member of the proposed National Employee Class to
14 sign tax refund check over to Defendants and submit the checks to them, Defendants knew of and
15 fully appreciated the benefit they were receiving.

16 76. It is inequitable for Defendants to retain tax refunds that rightfully belong
17 to the proposed National Employee Class Members.

18 77. By breaching their contracts with the National Employee Class members in
19 a way that allowed TCS to retain funds that rightfully belonged to the class members, each
20 proposed National Employee Class member has conferred a substantial benefit to the Defendants.

21 78. By breaching their contracts with the National Employee Class members in
22 a way that allowed TCS to retain funds that rightfully belonged to the class members, Defendants
23 knew of and fully appreciated the benefit they were receiving.

24 79. It is inequitable for Defendants to retain the funds that rightfully belong to
25 the proposed National Employee Class Members.

26 80. Defendants' conduct as alleged above establishes a claim for unjust
27 enrichment, as articulated by the Restatement (Third) of Restitution and Unjust Enrichment, the
28 laws of New York (Tata America's state of incorporation and principal place of business) and, in
 the alternative, the laws of California.

1 81. Plaintiff requests relief as provided in the Prayer for Relief below.

2 **CAUSES OF ACTION UNDER OTHER STATES' LAWS**

3 82. Formal discovery in this case has not yet begun, and Plaintiff has not had
4 access to information that will allow him to know with certainty which State's (or States') law of
5 conversion, unjust enrichment, and contracts governs Defendants' conduct. Plaintiffs are
6 informed and believe that the conversion, unjust enrichment and contract law of New York and/or
7 California shall govern here. To the extent that discovery reveals that another State's law governs
8 the conduct of Defendants' in this controversy, Plaintiff alleges causes of action for conversion,
9 unjust enrichment, and breach of contract under any State's law based on the allegations that
10 Defendants' conduct constituted conversion, unjust enrichment and breach of contract as
11 articulated by the Restatement (Second) of Torts, the Restatement (Third) of Restitution and
12 Unjust Enrichment, and the Restatement (Second) of Contracts. To the extent that discovery
13 reveals that another State's (or States') law of conversion and unjust enrichment governs,
14 Plaintiffs will seek leave to amend to allege causes of action under such State's (or States') law.

15 **FOURTH CLAIM FOR RELIEF**
16 **VIOLATION OF CAL. LABOR CODE § 221**
17 **(by Plaintiff on behalf of himself and the California Employee Subclass)**

18 83. Plaintiff hereby incorporates by reference the allegations contained in all
19 preceding paragraphs of this complaint.

20 84. Plaintiff brings this claim on behalf of himself and the proposed California
21 Employee Subclass.

22 85. The class period for the California Employee Subclass is from February 14,
23 2002 to the date of judgment in this action.

24 86. Pursuant to California Labor Code § 221, "It shall be unlawful for any
25 employer to collect or receive from an employee any part of wages theretofore paid by said
26 employer to said employee."

27 87. Pursuant to California Labor Code § 1171.5(a), "All protections, rights,
28 and remedies available under state law, except any reinstatement remedy prohibited by federal
law, are available to all individuals regardless of immigration status who have applied for

1 employment, or who are or who have been employed, in this state.”

2 88. Defendants’ conduct as alleged above constitutes a violation of California
3 Labor Code § 221, because by requiring Plaintiff and proposed California Subclass members to
4 sign over their tax refunds, Defendants required Plaintiff and the proposed California Employee
5 Subclass to return to Defendants a substantial part of the wages paid by Defendants to them.

6 89. Plaintiff requests relief as provided in the Prayer for Relief below.

7 **FIFTH CLAIM FOR RELIEF**
8 **VIOLATION OF CAL. LABOR CODE §§ 201-203**
9 **(by Plaintiff on behalf of himself and the California Employee Subclass)**

10 90. Plaintiff hereby incorporates by reference the allegations contained in all
11 preceding paragraphs of this complaint.

12 91. Plaintiff brings this claim on behalf of himself and the proposed California
13 Employee Subclass.

14 92. The class period for the California Employee Subclass is from February 14,
15 2002 to the date of judgment in this action.

16 93. Pursuant to California Labor Code § 201(a), “If an employer discharges an
17 employee, the wages earned and unpaid at the time of discharge are due and payable
18 immediately.”

19 94. Pursuant to California Labor Code § 202 (a), “If an employee not having a
20 written contract for a definite period quits his or her employment, his or her wages shall become
21 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
22 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
23 wages at the time of quitting.”

24 95. Pursuant to California Labor Code § 203, “If an employer willfully fails to
25 pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any
26 wages of an employee who is discharged or who quits, the wages of the employee shall continue
27 as a penalty from the due date thereof at the same rate until paid or until an action therefor is
28 commenced; but the wages shall not continue for more than 30 days.”

96. Pursuant to California Labor Code § 1171.5(a), “All protections, rights,

1 and remedies available under state law, except any reinstatement remedy prohibited by federal
 2 law, are available to all individuals regardless of immigration status who have applied for
 3 employment, or who are or who have been employed, in this state.”

4 97. Defendants’ conduct as alleged above constitutes a violation of California
 5 Labor Code §§ 201 through 203, because TCS failed to pay the entirety of dismissed class
 6 members’ wages within 72 hours of dismissal. Specifically, Defendants required Plaintiff and
 7 California Employee Subclass members to pay over their tax refund checks, and Defendants
 8 retained this money and did not pay it back upon the employees’ termination.

9 98. Plaintiff requests relief as provided in the Prayer for Relief below.

10 **SIXTH CLAIM FOR RELIEF**
 11 **VIOLATION OF CAL. LABOR CODE §§ 226, 1174**
 12 **(by Plaintiff on behalf of himself and the California Employee Subclass)**

13 99. Plaintiff hereby incorporates by reference the allegations contained in all
 14 preceding paragraphs of this complaint.

15 100. Plaintiff brings this claim on behalf of himself and the California Employee
 16 Subclass.

17 101. The class period for the California Employee Subclass is from February 14,
 18 2002 to the date of judgment in this action.

19 102. Pursuant to California Labor Code § 226(a), “Every employer shall,
 20 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
 21 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately
 22 when wages are paid by personal check or cash, an accurate itemized statement in writing
 23 showing (1) gross wages earned, . . . (4) all deductions, provided that all deductions made on
 24 written orders of the employee may be aggregated and shown as one item, (5) net wages
 25 earned, The deductions made from payments of wages shall be recorded in ink or other
 26 indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a
 27 record of the deductions shall be kept on file by the employer for at least three years at the place
 28 of employment or at a central location within the State of California.”

103. Pursuant to California Labor Code § 1174(d), employers shall keep “at a

1 central location in the state or at the plants or establishments at which employees are employed,
 2 payroll records showing the hours worked daily by and the wages paid to, and the number of
 3 piece-rate units earned by and any applicable piece rate paid to, employees employed at the
 4 respective plants or establishments.”

5 104. Pursuant to California Labor Code § 1171.5(a), “All protections, rights,
 6 and remedies available under state law, except any reinstatement remedy prohibited by federal
 7 law, are available to all individuals regardless of immigration status who have applied for
 8 employment, or who are or who have been employed, in this state.”

9 105. The conduct alleged in this complaint constitutes a violation of California
 10 Labor Code §§ 226 and 1174, as Defendants failed adequately to provide accurate itemized wage
 11 statements to Plaintiff and the proposed California Subclass Members’ wages. Defendants
 12 routinely changed the number of tax exemptions without first obtaining the consent and approval
 13 of the Plaintiff, and the California Employee Subclass. The wage statements Defendants provided
 14 to the class members did not accurately reflect the employees’ gross or net wages, as they failed
 15 to discount the employees’ tax refund checks that Defendants required the employees to return to
 16 the company.

17 106. Plaintiff requests relief as provided in the Prayer for Relief below.

18 **SEVENTH CLAIM FOR RELIEF**
 19 **VIOLATION OF CAL. LABOR CODE §§ 218.5, 227.3, and 201-203**
(by Plaintiff on behalf of himself and the California Employee Subclass)

20 107. Plaintiff hereby incorporates by reference the allegations contained in all
 21 preceding paragraphs of this complaint.

22 108. This claim is brought on behalf of Plaintiff Vedachalam and the California
 23 Employee Subclass.

24 109. The class period for the California Employee Subclass is from February 14,
 25 2002 to the date of judgment in this action.

26 110. Pursuant to California Labor Code § 227.3, “Unless otherwise provided by
 27 a collective-bargaining agreement, whenever a contract of employment or employer policy
 28 provides for paid vacations, and an employee is terminated without having taken off his vested

1 vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance
2 with such contract of employment or employer policy respecting eligibility or time served;
3 provided, however, that an employment contract or employer policy shall not provide for
4 forfeiture of vested vacation time upon termination. The Labor Commissioner or a designated
5 representative, in the resolution of any dispute with regard to vested vacation time, shall apply the
6 principles of equity and fairness.”

7 111. Pursuant to California Labor Code § 218.5, “In any action brought for the
8 nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the
9 court shall award reasonable attorney's fees and costs to the prevailing party if any party to the
10 action requests attorney's fees and costs upon the initiation of the action.”

11 112. Pursuant to California Labor Code § 1171.5(a), “All protections, rights,
12 and remedies available under state law, except any reinstatement remedy prohibited by federal
13 law, are available to all individuals regardless of immigration status who have applied for
14 employment, or who are or who have been employed, in this state.”

15 113. Pursuant to California Labor Code § 201(a), “If an employer discharges an
16 employee, the wages earned and unpaid at the time of discharge are due and payable
17 immediately.”

18 114. Pursuant to California Labor Code § 202 (a), “If an employee not having a
19 written contract for a definite period quits his or her employment, his or her wages shall become
20 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
21 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
22 wages at the time of quitting.”

23 115. Pursuant to California Labor Code § 203, “If an employer willfully fails to
24 pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any
25 wages of an employee who is discharged or who quits, the wages of the employee shall continue
26 as a penalty from the due date thereof at the same rate until paid or until an action therefor is
27 commenced; but the wages shall not continue for more than 30 days.”

28 116. The conduct alleged in this complaint constitutes a violation of California

1 Labor Code §§ 201, 202, 203, 218.5, and 227.3, because Defendants' forfeiture of vested but
2 unused vacation pay, as alleged above, constitutes an unlawful "use-it-or-lose-it" vacation policy.
3 TCS did not reimburse its terminated employees with the vacation time they had accrued.

4 117. Plaintiff requests relief as provided in the Prayer for Relief below.

5 **EIGHTH CLAIM FOR RELIEF**
6 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200**
7 **(by Plaintiff on behalf of himself and the proposed California Employee Subclass)**

8 118. Plaintiff hereby incorporates by reference the allegations contained in all
9 preceding paragraphs of this complaint.

10 119. Plaintiff brings this claim on behalf of himself and the proposed California
11 Employee Subclass.

12 120. The class period for the California Employee Subclass is from February 14,
13 2002 to the date of judgment in this action.

14 121. Defendants' violations of California Labor Code §§ 201-203, 221, 226,
15 227.3, and 1174, as alleged above, constitute unlawful business acts or practices.

16 122. Defendants' failure to pay wages as alleged herein to Plaintiffs and
17 members of the proposed classes under California Labor Code, and Defendants' failure to keep
18 proper records, as alleged herein, constitute unlawful activities prohibited by Business and
19 Professions Code §§ 17200, *et seq.*

20 123. The actions of Defendants in failing to pay Plaintiffs and members of the
21 proposed class in a lawful manner, as alleged herein, constitute false, unfair, fraudulent and
22 deceptive business practice, within the meaning of Business and Professions Code §§ 17200,
23 *et seq.*

24 124. Defendants' conduct as alleged herein has damaged Plaintiffs and proposed
25 class members by wrongfully failing to pay them all wages due upon termination of employment,
26 and by failing to provide itemized wage statements. Such conduct was substantially injurious to
27 Plaintiffs and the proposed class.

28 125. Under the circumstances alleged herein, it would be inequitable and result
in a miscarriage of justice for Defendants to continue to retain the property of Plaintiffs and

1 proposed class members, entitling Plaintiffs and proposed class members to restitution of the
2 unfair benefits obtained and disgorgement of Defendants' ill-gotten gains.

3 126. As a result of Defendants' unlawful business acts or practices, Defendants
4 have reaped and continue to reap unfair benefits and illegal profits at the expense of Plaintiff and
5 the proposed California Employee Subclass.

6 127. Defendants' improper, unfair and unlawful business practices and acts
7 alleged herein constitute a continuing threat to Plaintiff, Subclass members, and members of the
8 public in that, unless restrained, Defendants may continue to violate California Labor law.
9 Pursuant to Business and Professions Code § 17203, Plaintiff, on behalf of himself, the Plaintiff
10 Class, and the general public, seeks a permanent injunction requiring Defendants to cease its
11 unlawful and unfair business practices and acts.

12 128. As a direct and proximate result of the aforementioned practices and acts,
13 Defendants have been unjustly enriched, and Plaintiff, the proposed California Employee
14 Subclass, and the general public are entitled to restitution in an amount to be determined at trial.

15 129. Plaintiff requests relief as provided in the Prayer for Relief below.

16 **RELIEF ALLEGATIONS**

17 130. Plaintiff and the classes he seeks to represent have no plain, adequate, or
18 complete remedy at law to redress the wrongs alleged herein, and the injunctive relief sought in
19 this action is the only means of securing complete and adequate relief. Plaintiff and the classes he
20 seeks to represent are now suffering and will continue to suffer irreparable injury from TCS's
21 illegal acts.

22 131. The actions on the part of Defendant have caused and continue to cause
23 Plaintiff and the proposed classes substantial losses in earnings, other compensation, and other
24 employment benefits, in an amount to be determined according to proof.

25 132. Defendants acted or failed to act as herein alleged with malice or reckless
26 indifference to the protected rights of Plaintiff Vedachalam and members of the proposed classes.
27 Plaintiff Vedachalam and members of the proposed classes are thus entitled to recover punitive
28 damages in an amount to be determined according to proof.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the proposed classes, prays for relief as follows:

1. Certification of the case as a class action on behalf of the proposed Plaintiff classes, and designation of Plaintiff as representative of the classes and his counsel of record as Class Counsel;

2. Damages and equitable relief for all harm the individual Plaintiff and the classes have sustained as a result of Defendants' conduct, according to proof;

3. Exemplary and punitive damages in an amount commensurate with Defendants' ability to pay and to deter future unlawful conduct;

4. A preliminary and permanent injunction against Defendants and their directors, officers, owners, agents, successors, employees, and representatives—and any and all persons acting in concert with them—from engaging in each of the unlawful practices, policies, customs, and usages set forth herein;

5. A declaratory judgment that the practices complained of in this complaint are unlawful and violate applicable federal and state law.

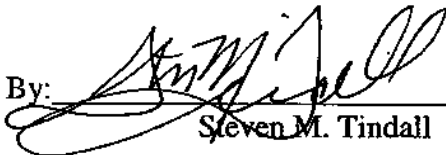
6. Costs incurred, including reasonable attorneys' fees, to the extent allowable by law;

7. Pre-Judgment and Post-Judgment interest, as provided by law; and

8. Such other and further legal and equitable relief as this Court deems necessary, just, and proper.

1 Dated: February 14, 2006

LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP

2
3
4 By: 
Steven M. Tindall

5 James M. Finberg (State Bar No. 114850)
6 Steven M. Tindall (State Bar No. 187862)
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10 *Counsel for the Plaintiff*

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: February 14, 2006

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

By: 
Steven M. Tindall

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