

APR 15 2016

By: \_\_\_\_\_, Deputy

CLERK OF THE SUPERIOR COURT  
SAN DIEGO COUNTY, CALIFORNIA

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CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

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5 Attorneys for Plaintiff

6  
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **COUNTY OF SAN DIEGO**

9 MATTHEW OKOLSKI, an individual, )

10 Plaintiff, )

11 vs. )

12 SHIMA CORONADO, LLC and DOES 1 to 10, )

13 Defendants. )

Case No.  
37-2016-00012435-CU-OE-CTL  
COMPLAINT

- 14 1. Unpaid Wages and Overtime
- 15 2. Violation of FLSA
- 16 3. Inaccurate Wage Statements.
- 17 4. Meal and Rest Period Violations.
- 18 5. Failure to Pay Wages Upon Termination.
- 19 6. Unfair Competition/Accounting.
- 20 7. Wrongful Termination in Violation of Public Policy
- 21 8. Violation of Labor Code 1102.5

Unlimited Jurisdiction  
Jury Trial Demanded

22 COMES NOW Plaintiff MATTHEW OKOLSKI ("Plaintiff") and for his causes of action  
23 against Defendant SHIMA CORONADO, LLC (Defendant), and DOES 1 to 10 (collectively  
24 "Defendants"), alleges as follows:

25 ///

1 I.

2 **SUBJECT MATTER JURISDICTION**

3 1. This action is brought pursuant to the California Labor Code Sections 201-203,  
4 226(a), 226.7, 510 as well as state tort law.

5 2. This Court has subject matter jurisdiction over the causes of action alleged in this  
6 complaint.

7 II.

8 **PERSONAL JURISDICTION AND VENUE**

9 3. At all relevant times Plaintiff is and was an individual residing in San Diego,  
10 California.

11 4. Plaintiff performed employment services for Defendant in San Diego County.

12 5. At all relevant times Defendant is and was a private entity organized under the laws  
13 of the State of California, and doing business in the County of San Diego.

14 6. The true names and capacities of the Defendants named herein as DOES 1 to 10,  
15 inclusive, whether individual, proprietorship, partnership, corporate, associate, alter ego, or  
16 otherwise, are unknown to Plaintiff who therefore sues such Defendants by fictitious names  
17 pursuant to California Code of Civil Procedure Section 474. Plaintiff will amend this complaint to  
18 show such true names and capacities when they have been determined.

19 7. The violations of law described in this complaint have been committed within the  
20 County of San Diego, State of California.

21 8. Pursuant to section 393 of the California Code of Civil Procedure, the County of San  
22 Diego is a proper and legal venue for this case.

23 9. The wrongful conduct of Defendants set forth in the General Allegations and various  
24 Causes of Action proximately caused Plaintiff to suffer damages, injuries, loss and/or harm,  
25 including but not limited to physical, mental and emotional injuries and distress, pain and suffering,

1 lost wages and benefits and health care expenses, and other general, special and statutory damages  
2 in amounts to be proven.

3 **III.**

4 **GENERAL ALLEGATIONS**

5 10. Plaintiff was first hired by Defendant on or about September 21, 2015 as a General  
6 Manager for the Defendant.

7 11. Plaintiff performed all of his duties to the expected standard and was in fact  
8 recognized for superior performance on several occasions.

9 12. Defendant often times would require Plaintiff, and other employees, to work "off-  
10 the-clock" by instructing Plaintiff and others to clock out using the timekeeping method but forcing  
11 them to continue to work for the Defendant. On many occasions, Plaintiff as well as other  
12 employees would be required to punch out for their meal breaks, but continue to perform services  
13 for the Defendant. Plaintiff, and other similarly situated employees, would often be forced to work  
14 more than 8 hours in a day or more than 40 hours in a week, yet did not receive overtime pay as  
15 required by California Labor Code section 510.

16 13. Defendant structured Plaintiff's work and the work of other similarly situated  
17 employees in such a way that he was not permitted to take meal or rest breaks.

18 14. Defendant also paid Plaintiff, and other employees with checks which did not  
19 include accurate information regarding the amount of hours worked, the rate of overtime pay, and  
20 other information required by California Labor Code Section 226(a) as well as other California  
21 laws. Defendant also issued back checks with insufficient funds.

22 15. Plaintiff separated from Defendant on or about February 5, 2015. Thereafter he was  
23 not paid all monies due him in accordance with California Labor Code sections 201-203.

24 16. While working for the Defendant, Plaintiff complained numerous times to  
25 management, including Dee Bromley and Mike Stradther, about both the wage and hour violations

1 described above as well issuing insufficient funds payroll checks. Plaintiff also informed  
2 management, regarding the numerous safety issues which he observed on the job and complained  
3 about to management including Mike Stradther drinking to excess on the premises.

4 17. On numerous occasions Plaintiff was instructed to engage in unsafe practices at  
5 work. Plaintiff was instructed to enter a confined space alone in contravention of established safety  
6 procedures and regulations prohibiting such conduct. Plaintiff refused this directive and was not  
7 only ridiculed but threatened with termination.

8 IV.

9 **FIRST CAUSE OF ACTION**

10 **RECOVERY OF UNPAID WAGES AND OVERTIME COMPENSATION**

11 **(Private Attorney General Act Labor Code section 2689 et seq)**

12 **By Plaintiff against Defendant**

13 19. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs  
14 above that precede the title block for the 'First Cause of Action '.

15 20. Cal. Lab. Code § 204 requires employers to pay employees for all hours worked as  
16 follows: "all wages... ..earned by any person in any employment are due and payable twice during  
17 each calendar month, on days designated in advance by the employer as the regular paydays." Cal.  
18 Lab. Code § 510 further provides that employees in California shall not be employed more than  
19 eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional  
20 compensation beyond their regular wages in amounts specified by law.

21 21. Cal. Lab. Code § 218 and §1194 establishes an employee's right to recover unpaid  
22 wages, overtime compensation, interest thereon, together with the costs of suit, and attorney's fees.  
23 Cal. Lab. Code § 1198 states that the employment of an employee for longer hours than those fixed  
24 by the Industrial Welfare Commission is unlawful.

25 22. Since Plaintiff began his employment, Defendant required Plaintiff to work, and he

1 often did work, more than 8 hours per day, and more than 40 hours per week.

2 23. Plaintiff was also required to work "off-the-clock" on numerous occasions.

3 24. Defendant failed to pay Plaintiff both wages and overtime wages as required by law.

4 25. Because of Defendant's violations of the law, Plaintiff has been damaged in an  
5 amount not presently known, but which he will be capable of proving at trial.

6 26. Plaintiff is informed, believes and thereupon alleges that Defendant engaged in the  
7 same conduct towards other similarly situated employees and therefore brings this action under the  
8 California Private Attorney General Act (Labor Code section 2689 et seq.)

9 27. Plaintiff is entitled to recover both wages and overtime wages from Defendant in  
10 addition to prejudgment interest, attorney's fees, costs and penalties on behalf of similarly situated  
11 employees.

12 V.

13 **SECOND CAUSE OF ACTION**

14 **VIOLATION OF THE FAIR LABOR STANDARDS ACT**

15 **By Plaintiff against Defendant**

16 28. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs  
17 above that precede the title block for the 'First Cause of Action.'

18 29. Defendant failed to pay wages and overtime wages to Plaintiff as required by law.

19 30. As a proximate result of Defendant's violations of law, Plaintiff has suffered and  
20 continues to suffer substantial losses related to the use and enjoyment of his unpaid wages, lost  
21 interest on those wages, and expenses in seeking to compel Defendant to perform its obligations  
22 under federal law, all to his damage in amounts according to proof at time of trial, but in excess of  
23 the minimum jurisdiction of this Court.

24 31. Defendant committed the acts alleged herein knowingly and willfully, with the  
25 wrongful intention of depriving the Plaintiff of the wages he had earned, in malicious and conscious

1 disregard of Plaintiff's rights.

2 32. Plaintiff is entitled to recover nominal, actual, and compensatory damages in  
3 amounts according to proof, in addition to liquidated damages (double damages), attorney's fees  
4 and costs pursuant to 29 U.S.C. 216.

5 VI.

6 **THIRD CAUSE OF ACTION**

7 **INACCURATE WAGE STATEMENTS**

8 **(Private Attorney General Act Labor Code section 2689 et seq)**

9 **By Plaintiff against Defendant**

10 33. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs  
11 above that precede the title block for the 'First Cause of Action.'

12 34. Defendant knowingly and intentionally provided inaccurate wage statements to  
13 Plaintiff and other similarly situated employees in violation of Labor Code section 226. The wage  
14 statements that Defendant provided failed to accurately state the hours Plaintiff worked, failed to  
15 specify his applicable rates of pay for overtime and double-time work, and failed to properly  
16 itemize deductions taken from Plaintiff's gross pay.

17 35. Plaintiff was injured by Defendant's failure to provide properly itemized wage  
18 statements because he was not paid for all of the time he worked, he was not paid at his proper rate  
19 of pay, and unlawful deductions were taken from his wages which were not properly reported.

20 36. As a proximate result of Defendant's violation of Labor Code section 226, Plaintiff  
21 suffered injury and is entitled to recover statutory damages, prejudgment interest, costs, reasonable  
22 attorney's fees and penalties on behalf of all other similarly situated employees according to proof.

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**VII.**

**FOURTH CAUSE OF ACTION**

**MEAL AND REST PERIOD VIOLATIONS**

**(Private Attorney General Act Labor Code section 2689 et seq)**

**By Plaintiff against Defendant**

37. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs above that precede the title block for the 'First Cause of Action.'

38. Defendant required Plaintiff to work shifts of more than five hours under conditions which did not permit him and other similarly situated employees to take 30 minute, off-duty meal breaks, in violation of Labor Code sections 226.7 and 512, and applicable Wage Orders.

39. Defendant scheduled Plaintiff's work, and the work of other similarly situated employees in a manner that prevented them from taking 10 minute, off-duty rest periods during shifts of 4 hours, in violation of Labor Code section 226.7 and applicable Wage Orders.

40. As a result of Defendant's violations of the Labor Code and Wage Orders as alleged herein, Plaintiff is entitled to recover premium wages in an amount to be shown at trial, prejudgment interest, his costs, attorney's fees, and penalties on behalf of all similarly situated employees.

**VIII.**

**FIFTH CAUSE OF ACTION**

**FAILURE TO PAY WAGES UPON TERMINATION**

**By Plaintiff against Defendant**

41. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs above that precede the title block for the 'First Cause of Action.'

42. Defendant willfully failed to pay Plaintiff all wages due at the time of his termination, or at any time thereafter, in violation of Labor Code section 201 through 203.

1 43. As a proximate result of Defendant's willful failure to pay all wages due to Plaintiff  
2 at the time of his termination, he is entitled to recover waiting time penalties pursuant to Labor  
3 Code section 203 in an amount to be proved at trial.

4 IX.

5 **SIXTH CAUSE OF ACTION**

6 **UNFAIR COMPETITION/ACCOUNTING**

7 **By Plaintiff against Defendant**

8 44. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs  
9 above that precede the title block for the 'First Cause of Action.'

10 45. The Labor Code, Wage Order and FLSA violations described herein constitute unfair  
11 and unlawful business practices under Business and Professions Code sections 17200, et seq.  
12 Defendant gained an unfair business advantage by refusing to pay its employees overtime wages as  
13 required by law; illegally requiring its employees to waive their right to recover earned wages; not  
14 providing its employees time to take statutorily mandated meal and rest breaks; understating the  
15 amount of Plaintiff's gross wages, under-funding Plaintiff's Social Security, Medicare,  
16 Unemployment Insurance and Disability Insurance funds and not paying him all wages due at  
17 termination.

18 46. In addition to statutory relief Plaintiff seeks in the other causes of action alleged  
19 herein, he seeks an accounting and restitution of all monetary losses for the injuries he sustained by  
20 reason of Defendant's unfair business practices.

21 X.

22 **SEVENTH CAUSE OF ACTION**

23 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

24 **By Plaintiff against Defendant**

25 47. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs



1 above that precede the title block for the 'First Cause of Action.'"

2 48. Defendant wrongfully discharged Plaintiff in violation of important and well-  
3 established public policies, set forth in various statutes and Constitutional provisions including but  
4 not limited to California Labor Code Sections 204, 510, 218 and 1194.

5 49. Defendant's wrongful conduct proximately caused Plaintiff to suffer general, special  
6 and statutory damages in an amount to be proven. Plaintiff is entitled to recover reasonable  
7 attorneys' fees. Plaintiff is entitled to injunctive relief including reinstatement, lost wages and  
8 benefits, and promotion without retaliation.

9 50. Defendant's wrongful conduct was malicious, oppressive, fraudulent, despicable and  
10 not to be tolerated by civilized society and was known, authorized, ratified and/or perpetrated by its  
11 managing agents, officers or directors, entitling Plaintiff to an award of punitive and exemplary  
12 damages in an amount to be proven.

13 **XI.**

14 **EIGHTH CAUSE OF ACTION**

15 **VIOLATION OF CALIFORNIA LABOR CODE SECTION 1102.5**

16 **By Plaintiff against Defendant**

17 51. Plaintiff re-alleges and incorporates in this cause of action all numbered paragraphs  
18 above that precede the title block for the 'First Cause of Action.'"

19 52. Defendant's wrongful conduct proximately caused Plaintiff to suffer general, special  
20 and statutory damages in an amount to be proven. Plaintiff is entitled to recover reasonable  
21 attorneys' fees. Plaintiff is entitled to injunctive relief including reinstatement, lost wages and  
22 benefits, and promotion without retaliation. Defendant's conduct was a substantial factor in causing  
23 Plaintiff's harm.

24 WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

25 1. For special compensatory damages, including lost wages estimated to be no less than

1 \$100,000;

2 2. For general compensatory damages, estimated to be no less than \$100,000;

3 3. For all applicable statutory remedies provided by the Labor Code and Wage Order,  
4 including but not limited to recovery of all unpaid wages, premium wages and penalties;

5 4. For liquidated damages pursuant to the FLSA, and all other relief provided by the  
6 FLSA;

7 5. For an award of prejudgment interest;

8 6. For restitution pursuant to section 17200 et seq.;

9 7. For an award of attorney's fees;

10 8. For costs of suit;

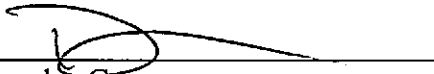
11 9. For recovery of penalties pursuant to Labor Code section 2689 et seq.,

12 10. For such other relief as the Court deems just and proper.

13 Dated: 4-11-16

LAW OFFICES OF DOUGLAS GEYMAN

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By:   
Douglas Geyman  
Attorney for Plaintiff

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**DEMAND FOR JURY TRIAL**

Plaintiffs demands a trial by jury of all issues in this action triable by a jury,  
including but not limited to issues of liability and damages.

DATED: 4-11-16

LAW OFFICES OF DOUGLAS GEYMAN

By:   
Douglas Geyman  
Attorney for Plaintiff