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8 Attorneys for Plaintiff
9 THE PEOPLE OF THE STATE OF CALIFORNIA ex
rel. EDMUND G. BROWN JR., as Attorney General
10 of the State of California

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

14 THE PEOPLE OF THE STATE OF CALIFORNIA ex
15 rel. EDMUND G. BROWN JR., as Attorney General of
the State of California,
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Plaintiff,
17
vs.
18
NOEL A. MORENO, an Individual; EMMA R.
19 MORENO, an Individual; DOES 1 through 50,
inclusive,
20
Defendants.
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CASE NO.
COMPLAINT FOR
INJUNCTIVE RELIEF AND
CIVIL PENALTIES
(Business & Professions Code
sections 17200 et seq.)

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23 Plaintiff, the People of the State of California, by and through Edmund G. Brown Jr., as
24 Attorney General of the State of California, is informed and believes, and on such information
25 and belief alleges:

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1 **INTRODUCTION**

2 1. This action is brought by Plaintiff, the People of the State of California, ex rel.
3 Edmund G. Brown Jr., Attorney General of the State of California, against Defendants Noel A.
4 Moreno and Emma R. Moreno, ("the Morenos"), who operate a trucking company called Moreno
5 Trucking, in order to stop the Morenos from engaging in unfair competition. The Morenos have
6 engaged in a pattern and practice of violating state law by misclassifying truck drivers working
7 for them as independent contractors rather than as employees. By misclassifying the drivers as
8 independent contractors, the Morenos have illegally lowered their cost of doing business by
9 failing to pay state employment-related taxes, failing to provide workers' compensation
10 insurance, and by failing to provide employees with itemized wage statements. The Morenos'
11 unlawful conduct not only harms law-abiding transportation companies, but also injures their
12 employees and the taxpayers of California. This action seeks to compel the Morenos to cease
13 engaging in unfair competition and to pay applicable penalties.

14 **PARTIES**

15 2. Plaintiff Edmund G. Brown Jr. is the Attorney General of the State of California
16 and is the chief law officer of the State. (Cal. Const., art. V, § 13.) The Attorney General is
17 empowered by the California Constitution to take whatever action is necessary to ensure that the
18 laws of the State are uniformly and adequately enforced. He is statutorily authorized to bring
19 actions in the name of the People of the State of California to enforce California's statutes
20 governing unfair competition. (Bus. & Prof. Code, § 17204.)

21 3. Defendant Noel A. Moreno is an individual, and at all times relevant herein was
22 doing business in the County of Los Angeles.

23 4. Defendant Emma R. Moreno is an individual, and at all times relevant herein was
24 doing business in the County of Los Angeles. Emma R. Moreno is married to Noel A. Moreno.
25 The Morenos own several trucks and hire drivers to transport cargo for their trucking company
26 from the Ports of Los Angeles and Long Beach.

27 5. The true names and capacities of defendants sued in the complaint under the
28 fictitious names DOES 1 through 50, inclusive, presently are unknown to plaintiff, who therefore

1 sues such defendants by such fictitious names. Plaintiff will seek to amend this complaint to
2 allege the true names of DOES 1 through 50 when the same have been ascertained. Plaintiff is
3 informed and believes, and based thereon alleges, that each of the fictitiously named defendants
4 participated in some or part of the acts alleged herein.

5 6. Whenever reference is made in this complaint to any act of the Morenos, such
6 allegations shall mean that the Morenos through their agents, employees, or representatives,
7 performed or authorized such acts while they were acting within the actual or ostensible scope of
8 their authority.

9 7. Whenever reference is made in this complaint to any act of the defendants,
10 including those named herein as Doe defendants, such allegations shall mean that each defendant
11 and/or Doe defendant acted individually and jointly with the other defendants, including the Doe
12 defendants, named in this complaint.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

15 **(UNFAIR COMPETITION)**

16 **(Against All Defendants)**

17 8. The People reallege and incorporate by reference paragraphs 1 through 7 of this
18 complaint as if set fully herein.

19 9. Defendants have violated and continue to violate Business and Professions Code
20 section 17200, et seq. by engaging in acts of unfair competition including, but not limited to, the
21 following:

22 a. failing to pay Unemployment Insurance taxes as required by Unemployment
23 Insurance Code section 976;

24 b. failing to pay Employment Training Fund taxes as required by Unemployment
25 Insurance Code section 976.6;

26 c. failing to withhold and transmit State Disability Insurance taxes as required by
27 Unemployment Insurance Code section 986;

28 d. failing to withhold State income taxes and file a withholding return as required

1 by Unemployment Insurance Code sections 13020 and 13021;

2 e. failing to provide workers' compensation as required by Labor Code section
3 3700;

4 f. and failing to provide employees with itemized written statements as required
5 by Labor Code section 226.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the People pray for the following relief:

8 1. Pursuant to Business and Professions Code section 17203; that defendants, their
9 successors, agents, representatives, employees and all persons who act in concert with defendants
10 be permanently enjoined from engaging in unfair competition as defined in Business and
11 Professions Code section 17200, including, but not limited to, acts and practices alleged in this
12 complaint;

13 2. Pursuant to Business and Professions Code section 17206, that the Court assess a civil
14 penalty of two thousand five hundred dollars (\$2,500) against Defendants for each violation of
15 Business and Professions Code section 17200, the total amount being no less than \$50,000.00 or
16 as proved at trial;

17 3. That the People recover their costs of suit; and

18 4. Such other and further relief that the Court deems appropriate and just.

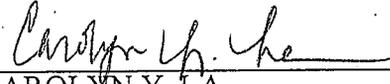
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Dated: October 27, 2008

Respectfully submitted,

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Senior Assistant Attorney General
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THE PEOPLE OF THE STATE OF CALIFORNIA
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General of the State of California