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

13 **THE PEOPLE OF THE STATE OF**  
14 **CALIFORNIA ex rel. EDMUND G.**  
15 **BROWN JR., Attorney General of the State**  
**of California,**

16 Plaintiff,

17 v.

18 **MDP CALIFORNIA, INC., a California**  
19 **Corporation, and DAVID JOSEPH**  
20 **WALNUM, and DOES 1 through 100,**  
21 **inclusive,**

22 Defendants.

Case No.

**COMPLAINT FOR INJUNCTIVE  
RELIEF, RESTITUTION AND  
PENALTIES**

VERIFIED ANSWER REQUIRED  
PURSUANT TO CODE OF CIVIL  
PROCEDURE SECTION 446

23 The People of the State of California, by and through Edmund G. Brown Jr., Attorney  
24 General of the State of California, allege as follows:

25 1. Fair competition is fundamental to the free enterprise economic system. To further a  
26 free economic system, Business & Professions Code, section 17200 expressly prohibits unlawful,  
27 unfair or fraudulent business practices. MDP California, Inc. (hereafter MDP) has engaged in and  
28 continues to engage in the unlawful business practices enabling it to reduce costs and underbid

1 competition on construction jobs requiring drywall installation. Unless enjoined by the court  
2 from continuing these unlawful business practices and ordered to make restitution and pay  
3 statutory penalties, it is anticipated that defendants will continue to pursue the unlawful schemes.

4 2. The State of California acts through its duly elected Attorney General, Edmund G.  
5 Brown Jr., who is the chief law officer of the State. (Cal. Const., art. 5, § 13.) In this capacity he  
6 may seek enforcement of the rights and interests of the people of California. Business and  
7 Professions Code section 17204 authorizes the Attorney General to bring actions to enforce the  
8 California Unfair Competition Law.

9 3. Defendant MDP is, and at all times relevant herein has been, a corporation doing  
10 business in the State of California, including in the county of Los Angeles. Defendant David  
11 Joseph Walnum is the CEO and President of MDP California.

12 4. Plaintiff is informed and believes, and thereon alleges, that each defendant is the alter  
13 ego of each other defendant using the corporate form to further the illegal scheme enabling it to  
14 engage in the unfair competition complained of herein. Plaintiff is informed and believes that the  
15 defendants are integrated enterprises with an interrelation of operations, common management,  
16 centralized control of labor relations, and common ownership.

17 5. The true names and capacities of defendants sued in the Complaint under the  
18 fictitious names of DOES 1 through 100, inclusive, are unknown to plaintiff who therefore sues  
19 such defendants by such fictitious names. Plaintiff will amend this complaint to show the true  
20 names of each when the same has been ascertained. Defendants sued herein as DOES 1 through  
21 100 are, and at all relevant times were, engaged with MDP in the activities and conduct  
22 complained of herein.

23 6. Whenever reference is made in this complaint to any act of any defendant, such  
24 allegations shall mean that the named defendant through its agents, employees, or representatives,  
25 performed or authorized such acts while engaged in the management, direction or control of the  
26 affairs of all the defendants.

27 7. Any reference to any act of any defendant means that each defendant engaged in the  
28 act individually, jointly, and/or in concert with all other defendants.

1 **FIRST CAUSE OF ACTION**

2 **Unfair Competition Business and Professions Code section 17200**

3 8. The People are informed and believe that during performance of drywall installation,  
4 defendants have obtained an unfair advantage in bidding competition for drywall construction  
5 work to the detriment of honest and fair competitors. Defendants' unlawful and unfair business  
6 practices include: failure to pay overtime premium pay (Wage Order 16-2001, sub. (3)(A));  
7 paying employees with checks with another's name as the person payable (Labor Code, section  
8 226); failure to pay employees for all hours worked (Wage Order 16-2001, sub. 4(A)); paying  
9 employees without providing a written statement of the hours worked, etc. and providing  
10 employees with inaccurate paycheck stubs when they were provided (Labor Code, section 226);  
11 failure to provide employees with workers compensation coverage when injured and failure to  
12 report injuries to employees to its workers compensation carrier (Labor Code, sections 3700,  
13 3760); failure to accurately report to EDD the wages paid all employees and to take deductions  
14 from employees' pay for state taxes and disability insurance (Unemployment Insurance Code,  
15 sections 1088, 13020, 986); failure to pay unemployment insurance taxes (Unemployment  
16 Insurance Code section 976); failure to provide employees with statutorily required rest periods  
17 (Labor Code, section 226.7; Wage Order 16-2001, sub. (11) ); failure to immediately pay laid-off  
18 employees (Labor Code, section 202); and failure to provide all employees with W-2 forms.

19 9. Due to defendants unfair and unlawful practices defendants have obtained an unfair  
20 advantage over their competitors and deprived employees the benefits they are entitled to under  
21 California law.

22 10. Through MDP's unfair and unlawful practices set forth in paragraph 8, MDP  
23 employees during the past statutory period suffered substantial monetary losses and are entitled to  
24 restitution for the losses. The losses to defendants' employees include but are not limited to:

25 (a). time-and-one-half pay for overtime worked Monday through Saturday and  
26 double time for overtime worked on Sunday;

27 (b). one-hour pay for each paid rest period not provided;  
28

1 (c). continuation of wage as penalty for the unlawful delay in providing immediate  
2 pay owed to employees upon their termination of employment;

3 (d). payment to employees for all hours worked;

4 (e). payment to employees who were injured on the job with workers compensation  
5 benefits not provided.

6 11. Defendants' violation of California statutes and administrative orders has caused  
7 irreparable damage to the People of the State of California. There is no adequate remedy at law  
8 that might justify denial of preliminary or permanent injunctive relief.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, the People pray for the following relief:

11 1. Defendants, their successors, agents, representatives, employees and all persons  
12 acting in concert with defendants be enjoined and restrained from engaging in unfair competition  
13 as defined in Business and Professions Code section 17200, including but not limited to the types  
14 of acts or practices alleged herein.

15 2. Defendants be permanently enjoined from engaging in business in the State of  
16 California while agents, representatives, employees and all persons acting in concert with a  
17 defendant continue to commit any and all of the violations of law expressed in the first cause of  
18 action.

19 3. Defendants pay restitution to their employees for wages lost through defendants'  
20 violations of the law as set forth herein in an amount of not less than \$500,000.

21 4. Defendants pay civil penalties up to \$2,500 for each violation of Business and  
22 Professions Code section 17200 in an amount not less than of \$500,000.

23 5. The People recover the costs of investigation, expert witness fees, and costs of the  
24 action.

25 6. Such other and further relief as the Court deems appropriate and just.  
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1 Dated: April 13, 2010

Respectfully Submitted,

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