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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

AUG 16 2013

John A. Clarke, Executive Officer/Clerk  
BY Cristina Orjialva Deputy  
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*Compla*

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D323 Elinu Berke

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES**

16 ANTHONY CONTROULIS as an individual and  
17 on behalf of all others similarly situated,  
18  
19 Plaintiff,  
20 vs.  
21 ANHEUSER-BUSCH, LLC, a Missouri Limited  
Liability Company; and DOES 1 through 10,  
22  
23 Defendants.

CASE NO. **BC518518**

**CLASS AND REPRESENTATIVE ACTION COMPLAINT:**

- 18 (1) **FAILURE TO PAY ALL OVERTIME WAGES (LABOR CODE §§ 204, 510, 558, 1194, 1198);**
- 19 (2) **WAGE STATEMENT VIOLATIONS (LABOR CODE § 226 et seq.);**
- 20 (3) **WAITING TIME PENALTIES (LABOR CODE §§ 201 - 203);**
- 21 (4) **UNFAIR COMPETITION (BUS & PROF CODE § 17200 et seq.);**
- 22 (5) **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 et seq.)**

RECEIPT #: CCH195707069  
 DATE PAID: 08/16/13 01:20 PM  
 PAYMENT: \$1,435.00  
 \$1,435.00  
 \$0.00  
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CIT/CASE: BC518518  
LEN/DEF#:

1013

1 DEMAND FOR JURY TRIAL  
2 UNLIMITED CIVIL CASE  
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11 Plaintiff Anthony Controulis ("Plaintiff") on behalf of himself and all others similarly  
12 situated, hereby brings this Class and Representative Action Complaint against Defendant  
13 Anheuser-Busch LLC, a Missouri Limited Liability Company; and DOES 1 to 10 (collectively  
14 "Defendants"), inclusive, and on information and belief alleges as follows:

15 **JURISDICTION**

16 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this  
17 class and representative action for recovery of unpaid wages and penalties under Labor Code §§  
18 201-204, 210, 216, 226, 226.3, 510, 516, 558, 1174, 1194, 1197, 1198, 2698 *et seq.*, the  
19 California Business and Professions Code §17200 *et. seq.* and Industrial Welfare Commission  
20 Wage Order No. 1, in addition to seeking injunctive relief, declaratory relief, and restitution.  
21 This class action is brought pursuant to California Code of Civil Procedure 382. This Court has  
22 jurisdiction over Defendants' violations of the California Labor Code because the amount in  
23 controversy exceeds this Court's jurisdictional minimum.  
24

25 **VENUE**

26 2. Venue as to each Defendant is proper in this judicial district pursuant to  
27 California Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and  
28 omissions complained of hereon occurred in the County of Los Angeles. Further, Plaintiff does  
29  
30

1 now, and at all times relevant herein did, reside in Los Angeles County and was employed by  
2 Defendants within Los Angeles County.

3 **PARTIES**

4 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times  
5 herein, Plaintiff was and currently is, a California resident, residing in the county of Los  
6 Angeles. During the four years immediately preceding the filing of the Complaint in this action  
7 and within the statute of limitations periods applicable to each cause of action pled herein,  
8 Plaintiff was employed by Defendants as an hourly non-exempt employee. Plaintiff was, and is,  
9 a victim of Defendants' policies and/or practices complained, lost money and/or property, and  
10 has been deprived of the rights guaranteed to him by California Labor Code §§ 201-204, 210,  
11 216, 226, 226.3, 510, 516, 558, 1174, 1194, 1197, 1198, 2698 *et seq.*, California Business and  
12 Professions Code § 17200 *et seq.* (Unfair Competition), and California Industrial Welfare  
13 Commission Wage Order 1-2001 (hereafter "Wage Order 1-2001"), which sets employment  
14 standards for the manufacturing industry.  
15

16 4. Plaintiff is informed and believes, and based thereon alleges, that during the four  
17 years preceding the filing of the Complaint and continuing to the present, Defendants did (and  
18 do) business by operating a brewery in Van Nuys, California, located within Los Angeles  
19 County, and employed Plaintiff and other, similarly-situated hourly non-exempt employees  
20 within Los Angeles County and, therefore, were (and are) doing business in Los Angeles  
21 County and the State of California.

22 5. Plaintiff is informed and believes, and thereon alleges, that at all times  
23 mentioned herein, Defendant Anheuser-Busch LLC, a Missouri Limited Liability Company,  
24 was licensed to do business in California and the County of Los Angeles, and was the employer  
25 of Plaintiff and the Classes (as defined in Paragraph 12) because it (1) exercised control over the  
26 wages, hours, or working conditions of Plaintiff and the Classes; (2) suffered or permitted  
27 Plaintiff and the Classes to work; or (3) engaged Plaintiff and the Classes to work, thereby  
28 creating a common law employment relationship.



1 failed to include the various forms of Incentive Pay earned during corresponding periods that  
2 were required to be included in the regular rate, but were not.

3 11. As a result of Defendants' failure to pay overtime pay at the correct rate,  
4 Defendants maintained inaccurate payroll records and issued inaccurate wage statements to  
5 Plaintiff.

6 **CLASS AND COLLECTIVE ACTION ALLEGATIONS**

7 12. Class Definition: Plaintiff brings this action on behalf of himself and the  
8 following Classes pursuant to Section 382 of the Code of Civil Procedure:

9 a. The Overtime Class consists of all Defendants' current and former hourly non-  
10 exempt employees in California who received Incentive Pay and overtime compensation in a  
11 corresponding time period, during the four years immediately preceding the filing of the  
12 Complaint through the present.

13 b. The Wage Statement Class consists of members of the Overtime Class, for  
14 whom Defendants' failed to include all forms of Incentive Pay in the regular rate which resulted  
15 in the underpayment of overtime wages during the one year immediately preceding the filing of  
16 the Complaint through the present.

17 c. The Waiting Time Penalty Class consists of Defendants' formerly employed  
18 members of the Overtime Class, for whom Defendants failed to include all forms of Incentive  
19 Pay in the regular rate which resulted in the underpayment of overtime wages during the three  
20 years immediately preceding the filing of the Complaint through the present.

21 13. Plaintiff is further informed and believes that Defendants and members of the  
22 Overtime Classes failed to enter into an agreement or understanding for a work period of  
23 fourteen (14) consecutive days in lieu of a workweek of seven (7) consecutive days for purposes  
24 of overtime computation pursuant to IWC Wage Order No. 1-2001, § 3(D).

25 14. **Numerosity/Ascertainability:** The members of the Classes are so numerous  
26 that joinder of all members would be unfeasible and not practicable. The membership of the  
27 classes and subclasses are unknown to Plaintiff, at this time; however, it is estimated that the  
28

1 Classes number greater than one-hundred (100) individuals as to each Class. The identity of  
2 such membership is readily ascertainable via inspection of Defendants' employment records.

3 **15. Common Questions of Law and Fact Predominate/Well Defined Community**  
4 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly  
5 situated employees, which predominate over questions affecting only individual members  
6 including, without limitation to:

7 i. Whether Defendants violated the applicable Labor Code provisions including,  
8 but not limited to §§510 and 1194 by requiring overtime work and not paying for said work  
9 according to the overtime laws of the State of California;

10 ii. Whether Defendants failed to properly include all forms of compensation when  
11 computing the respective regular rates for members of the Overtime Class;

12 iii. Whether Defendants' policies and/or practices for determining the regular rate of  
13 pay for purposes of overtime compensation to the Overtime Class violated California law;

14 iv. Whether Defendants furnished legally compliant wage statements to members of  
15 the Wage Statement Class pursuant to Labor Code 226;

16 v. Whether Defendants' policies and/or practices for the timing and amount of  
17 payment of final wages to members of the Waiting Time Class at the time of separation from  
18 employment were unlawful;

19 vi. Whether Defendants and members of the California Overtime Class entered into  
20 an agreement or understanding for a work period of fourteen (14) consecutive days in lieu of a  
21 workweek of seven (7) consecutive days for purposes of overtime computation, as required by  
22 IWC Wage Order No. 1-2001, § 3(D);

23  
24 **16. Predominance of Common Questions:** Common questions of law and fact  
25 predominate over questions that affect only individual members of the Classes. The common  
26 questions of law set forth above are numerous and substantial and stem from Defendants'  
27 policies and/or practices applicable to each individual class member, such as their uniform  
28 method of calculating overtime payments for the members of the Overtime Class. As such, the

1 common questions predominate over individual questions concerning each individual class  
2 member's showing as to his or her eligibility for recovery or as to the amount of his or her  
3 damages.

4 17. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes  
5 because Plaintiff was employed by Defendants as a non-exempt employee in California during  
6 the statutes of limitation applicable to each cause of action pled in the Complaint in this action.  
7 As alleged herein, Plaintiff, like the members of the Classes, was deprived of all overtime  
8 wages, was furnished with inaccurate and incomplete wage statements, and was not paid all  
9 wages owed at the time of his termination.

10 18. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary  
11 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,  
12 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members  
13 of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous  
14 wage-and-hour class actions in state and federal courts in the past and are committed to  
15 vigorously prosecuting this action on behalf of the members of the classes.

16 19. **Superiority:** The California Labor Code is broadly remedial in nature and  
17 serves an important public interest in establishing minimum working conditions and standards  
18 in California. These laws and labor standards protect the average working employee from  
19 exploitation by employers who have the responsibility to follow the laws and who may seek to  
20 take advantage of superior economic and bargaining power in setting onerous terms and  
21 conditions of employment. The nature of this action and the format of laws available to  
22 Plaintiff and members of the Classes make the class action format a particularly efficient and  
23 appropriate procedure to redress the violations alleged herein. If each employee were required  
24 to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage  
25 since they would be able to exploit and overwhelm the limited resources of each individual  
26 plaintiff with their vastly superior financial and legal resources. Moreover, requiring each  
27 member of the Classes to pursue an individual remedy would also discourage the assertion of  
28

1 lawful claims by employees who would be disinclined to file an action against their former  
2 and/or current employer for real and justifiable fear of retaliation and permanent damages to  
3 their careers at subsequent employment. Further, the prosecution of separate actions by the  
4 individual class members, even if possible, would create a substantial risk of inconsistent or  
5 varying verdicts or adjudications with respect to the individual class members against  
6 Defendants herein; and which would establish potentially incompatible standards of conduct for  
7 Defendants; and/or legal determinations with respect to individual class members which would,  
8 as a practical matter, be dispositive of the interest of the other class members not parties to  
9 adjudications or which would substantially impair or impede the ability of the class members to  
10 protect their interests. Further, the claims of the individual members of the class are not  
11 sufficiently large to warrant vigorous individual prosecution considering all of the concomitant  
12 costs and expenses attending thereto.

13  
14 20. As such, the Classes identified in Paragraph 12 are maintainable as a Class under  
15 Section 382 of the Code of Civil Procedure.

16 **FIRST CLAIM**

17 **FAILURE TO PAY OVERTIME WAGES**

18 **(AGAINST ALL DEFENDANTS)**

19 21. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 20 as  
20 though fully set forth herein.

21 22. This cause of action is brought on behalf of the Overtime Class pursuant to  
22 Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that hourly non-exempt  
23 employees are entitled to all overtime wages and compensation for hours worked, and provide a  
24 private right of action for the failure to pay all overtime compensation for overtime work  
25 performed.

26 23. Plaintiff and members of the Overtime Class worked overtime hours and were  
27 paid various forms of Incentive Pay during a corresponding time period, which are not statutory  
28 exclusions when calculating an employee's regular rate. At all times relevant herein,



1 Defendants were required to properly compensate non-exempt employees, including Plaintiff  
2 and members of the Overtime Class, for all overtime hours worked pursuant to California Labor  
3 Code § 1194 and IWC Wage Order No. 1-2001. Wage Order 1-2001, § 3 requires an employer  
4 to pay an employee “one and one-half (1½) times the employee’s regular rate of pay” for work  
5 in excess of 8 hours per work day and/or in excess of 40 hours of work in the workweek. Wage  
6 Order 1-2001, § 3 also requires an employer to pay an employee double the employee’s regular  
7 rate of pay for work in excess of 12 hours each work day and/or for work in excess of 8 hours  
8 on the seventh consecutive day of work in the workweek.

9           24. Plaintiff is informed and believes, and based thereon alleges that, Defendants  
10 regularly and systematically, as a policy and practice, miscalculated the overtime rate of pay by  
11 failing to properly include the various forms of Incentive Pay paid to Plaintiff and members of  
12 the Overtime Class, which are not statutory exclusions when calculating an employee’s regular  
13 rate of pay. Accordingly, Plaintiff and members of the Overtime Class were not compensated at  
14 the appropriate rates of overtime pay for all hours worked.  
15

16           25. Defendants’ policy and practice of requiring overtime work and not paying at the  
17 proper overtime rates for said work violates California Labor Code §§ 204, 210, 216, 510, 558,  
18 1194, and 1198, and IWC Wage Order 1-2001.

19           26. Plaintiff is informed and believes and thereon alleges that the job duties and  
20 responsibilities of the Overtime Class are irrelevant because Plaintiff and all others similarly  
21 situated merely allege wrongdoing with Defendants’ pay policies and practices as to calculating  
22 the applicable overtime rates of pay for overtime worked by members of the Overtime Class.

23           27. The foregoing policies and practices are unlawful and create an entitlement to  
24 recovery by Plaintiff and members of the Overtime Class in a civil action for the unpaid amount  
25 of overtime premiums owing, including interest thereon, statutory penalties, civil penalties,  
26 attorney’s fees, and costs of suit according to California Labor Code §§ 204, 210, 216, 510, 558,  
27 1194, 1198, 2698 *et seq.*, and Code of Civil Procedure § 1021.5.  
28



1 of his/her intent to quit, said employee's wages become due and payable not later than 72 hours  
2 upon said employee's last date of employment.

3 34. Defendants failed to timely pay Plaintiff all of his final wages at the time of  
4 termination which includes underpaid overtime wages. Further, Plaintiff is informed and  
5 believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants  
6 continue to fail to pay members of the Waiting Time Class all earned wages at the end of  
7 employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203.  
8 Defendants' failure to pay all final wages was willful within the meaning of Labor Code § 203.

9 35. Defendants' wilful failure to timely pay Plaintiff and the members of the Waiting  
10 Time Class their earned wages upon separation from employment results in a continued  
11 payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff  
12 and members of the Waiting Time Class are entitled to compensation pursuant to Labor Code §  
13 203, plus reasonable attorneys' fees and costs of suit.  
14

15 **FOURTH CAUSE OF ACTION**

16 **UNFAIR COMPETITION**

17 **(AGAINST ALL DEFENDANTS)**

18 36. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 35 as  
19 though fully set forth herein.

20 37. Defendants have engaged and continue to engage in unfair and/or unlawful  
21 business practices in California in violation of California Business and Professions Code §  
22 17200 *et seq.*, by: (a) failing to pay Plaintiff and members of the Overtime Class all overtime  
23 wages owed due to miscalculation of the regular rate; (b) knowingly failing to furnish Plaintiff  
24 and members of the Wage Statement Class with accurate and complete wage statements in  
25 violation of Labor Code § 226; and (c) willfully failing to timely pay Plaintiff and members of  
26 the Waiting Time Class all final wages upon termination of employment.

27 38. Defendants' utilization of these unfair and/or unlawful business practices  
28 deprived Plaintiff and continues to deprive members of the classes of compensation to which

1 they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair  
2 advantage over Defendants' competitors who have been and/or are currently employing workers  
3 and attempting to do so in honest compliance with applicable wage and hour laws.

4 39. Because Plaintiff is a victims of Defendants' unfair and/or unlawful conduct  
5 alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seek full  
6 restitution of monies, as necessary and according to proof, to restore any and all monies  
7 withheld, acquired and/or converted by the Defendants pursuant to Business and Professions  
8 Code §§ 17203 and 17208.

9 40. The acts complained of herein occurred within the last four years immediately  
10 preceding the filing of the Complaint in this action.

11 41. Plaintiff was compelled to retain the services of counsel to file this court action  
12 to protect their interests and those of the Classes, to obtain restitution, to secure injunctive relief  
13 on behalf of Defendants' current hourly non-exempt employees, and to enforce important rights  
14 affecting the public interest. Plaintiff thereby incurred the financial burden of attorneys' fees  
15 and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

16  
17 **FIFTH CAUSE OF ACTION**

18 **PRIVATE ATTORNEYS GENERAL ACT**

19 **(AGAINST ALL DEFENDANTS)**

20 42. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 41 as  
21 though fully set forth herein.

22 43. Defendants have committed several Labor Code violations against Plaintiff,  
23 members of the Classes, and other similarly aggrieved employees.

24 44. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et*  
25 *seq.*, acting on behalf of himself and other similarly aggrieved employees, brings this  
26 representative action against Defendants to recover the civil penalties due to Plaintiff, the  
27 members of the Classes, other similarly aggrieved employees, and the State of California  
28 according to proof pursuant to Labor Code § 2699(a) and (f) including, but not limited to

1 \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay  
2 period for the following Labor Code violations:

3 (a) Failing to pay Plaintiff, the Overtime Class, and other similarly aggrieved  
4 employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and  
5 1198 *et seq.*;

6 (b) Failing to furnish Plaintiff, the Wage Statement Class, and other similarly  
7 aggrieved employees with complete, accurate, itemized wage statements in violation of Labor  
8 Code § 226;

9 (c) Failing to timely pay all final wages and compensation earned by Plaintiff, the  
10 Waiting Time Class, and other similarly aggrieved employees at the time of termination in  
11 violation of Labor Code §§ 201 – 203;

12 (d) Failing to maintain accurate records on behalf of Plaintiff and similarly  
13 aggrieved employees in violation of Labor Code § 1174;

14  
15 45. On or about August 16, 2013, Plaintiff notified Defendants and the California  
16 Labor and Workforce Development Agency (“LWDA”) via certified mail of Defendants’  
17 violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties  
18 under California Labor Code § 2698 *et seq.* with respect to the violations of the California  
19 Labor Code identified in Paragraph 44 (a)-(d). Once thirty-three days have passed from  
20 Plaintiff notifying Defendants of the aforementioned violations, Plaintiff will have exhausted  
21 his administrative requirements for bringing a claim under the Private Attorneys General Act.

22 46. Plaintiff was compelled to retain the services of counsel to file this court action  
23 to protect his interests, that of the members of the classes, and other similarly aggrieved  
24 employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has  
25 thereby incurred attorneys’ fees and costs, which he is entitled to recover under California  
26 Labor Code § 2699.  
27  
28

1 PRAYER

2 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose  
3 behalf this suit is brought against Defendants, jointly and severally, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for compensatory, consequential, general and  
8 special damages according to proof pursuant to Labor Code §§ 204, 510, 558,  
9 1194, and 1198;
- 10 5. Upon the Second Cause of Action, for statutory penalties pursuant to Labor Code  
11 § 226;
- 12 6. Upon the Third Cause of Action, for statutory waiting time penalties pursuant to  
13 Labor Code § 203;
- 14 7. Upon the Fourth Cause of Action, for injunctive relief and restitution to Plaintiff  
15 and members of the Classes of all money and/or property unlawfully acquired by  
16 Defendants by means of any acts or practices declared by this Court to be in  
17 violation of Business and Professions Code § 17200 *et seq.*;
- 18 8. Upon the Fifth Cause of Action, for civil penalties due to Plaintiff, other  
19 similarly aggrieved employees, and the State of California according to proof  
20 pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to:  
21 (1) \$50.00 for each initial violation and \$100 for each subsequent violation of  
22 Labor Code § 558 per employee per pay period plus an amount sufficient to  
23 recover the unpaid wages and; (2) \$100.00 for each initial violation and \$200 for  
24 each subsequent violation per employee per pay period for the violations of the  
25 Labor Code Sections cited in Labor Code § 2699.5;
- 26 9. Prejudgment interest on all due and unpaid wages pursuant to California Labor  
27 Code § 218.6 and Civil Code §§ 3287 and 3289;  
28

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1 10. On all causes of action, for attorneys' fees and costs as provided by Labor Code  
2 §§ 226, 1194 *et seq.*, 2698 *et seq.*, and Code of Civil Procedure § 1021.5.

3 11. For such other and further relief the Court may deem just and proper.  
4

5 Dated: August 15, 2013

Respectfully submitted,  
BOREN OSHER & LUFTMAN

6  
7 By: 

Paul K. Haines  
Attorneys for Plaintiff, the Classes and Aggrieved  
8 Employees  
9

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

12 Dated: August 15, 2013

BOREN OSHER & LUFTMAN

13  
14 By: 

Paul K. Haines  
Attorneys for Plaintiff, the Classes and Aggrieved  
15 Employees  
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