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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO

12 CHRISTOPHER JAVIER, AMBER
13 JOHNSON, and SANDY MANU, and all
others similarly situated,

14 Plaintiffs,

15 vs.

16 EAT24, LLC and YELP INC., and DOES 1-
17 25,

18 Defendants.

Case No. CGC-15-545485

**ANSWER AND GENERAL DENIAL TO
PLAINTIFFS' UNVERIFIED AMENDED
CLASS ACTION COMPLAINT**

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21 Defendants EAT24, LLC and Yelp Inc. ("Defendants") respond to the unverified
22 Amended Class Action Complaint ("Complaint") filed by Plaintiff Christopher Javier, Amber
23 Johnson, and Sandy Manu ("Plaintiffs") as follows:

24 Defendants deny each and every allegation in Plaintiffs' Complaint, and specifically deny
25 that they are liable to Plaintiffs in any manner, and further deny that Plaintiffs have suffered any
26 loss or damages as alleged in the Complaint.

27 Further, as separate and distinct affirmative defenses, Defendants allege upon information
28 and belief as follows:

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
06/10/2016
Clerk of the Court
BY: WILLIAM TRUPEK
Deputy Clerk

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FIRST AFFIRMATIVE DEFENSE

1. The Complaint is barred, in whole or in part, because Plaintiffs' claims are subject to mandatory, binding arbitration under the arbitration agreement Plaintiffs signed in connection with their employment with Defendants. Defendants reserve their right to seek to compel individual arbitration, and also assert that putative class action class members are, or may become, subject to arbitration agreements, and Defendants reserve the right to compel these individuals to arbitrate their claims individually.

SECOND AFFIRMATIVE DEFENSE

2. Each cause of action in the Complaint is barred, in whole or in part, by the applicable statutes of limitations, including without limitation, California Civil Procedure Code section(s), 338(a), 340(a) and/or 343 and California Business and Professions Code section 17208.

THIRD AFFIRMATIVE DEFENSE

3. Each cause of action is barred, in whole or in part, by California Labor Code section 2856, to the extent Plaintiffs failed substantially to comply with all the directions of Defendants and such failure proximately caused the alleged losses for which they seek relief.

FOURTH AFFIRMATIVE DEFENSE

4. To the extent Plaintiffs were paid any compensation by Defendants beyond that to which they were entitled, such additional compensation would satisfy in whole or part any alleged claim for unpaid wages or other monetary relief.

FIFTH AFFIRMATIVE DEFENSE

5. To the extent Plaintiffs engaged in dishonest, willful, or grossly negligent misconduct, Defendants are entitled to set off any losses due to such conduct against their wages or other compensation.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiffs, by their own conduct and/or admissions, are estopped from bringing some or all of the purported causes of action in the Complaint or recovering any damages alleged therein.

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SEVENTH AFFIRMATIVE DEFENSE

7. Each cause of action is barred, in whole or in part, by the doctrine of unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

8. Each cause of action is barred, in whole or in part, by the doctrine of laches.

NINTH AFFIRMATIVE DEFENSE

9. Each claim for a penalty or liquidated damages remedy is barred, in whole or in part, because the penalty sought is not commensurate with the harm suffered and thus violates the due process and excessive penalty protections provided by the California and federal constitutions.

TENTH AFFIRMATIVE DEFENSE

10. To the extent penalties are awarded under the California Labor Code Private Attorneys General Act of 2004, such penalties should be awarded in a reduced amount because to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory under California Labor Code section 2699(e).

ELEVENTH AFFIRMATIVE DEFENSE

11. Each cause of action in the Complaint is barred, in whole or in part, because to the extent Defendants engaged in any alleged wrongful conduct, such conduct was undertaken in good faith and with reasonable grounds for believing such actions were not in violation of California law.

TWELFTH AFFIRMATIVE DEFENSE

12. Each cause of action in the Complaint is barred, in whole or in part, because some or all of the time for which Plaintiffs seek compensation is not compensable working time under California law.

THIRTEENTH AFFIRMATIVE DEFENSE

13. The Complaint is barred, in whole or in part, because any damage allegedly suffered by Plaintiffs was due to Plaintiffs' own conduct, including, but not limited to, choosing voluntarily to forgo meal periods and rest breaks that were otherwise afforded and made available to them.

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FOURTEENTH AFFIRMATIVE DEFENSE

14. The Complaint fails to state a claim for penalties under Labor Code section 226 in that Defendants' failure, if any, to have furnished accurate itemized wage statements was not knowing or intentional, and/or because Plaintiffs suffered no injury as a result.

FIFTEENTH AFFIRMATIVE DEFENSE

15. Each cause of action is barred, in whole or in part, because any recovery from Defendants would result in the unjust enrichment of Plaintiffs.

SIXTEENTH AFFIRMATIVE DEFENSE

16. Each cause of action is barred, in whole or in part, by the doctrine of release and/or the doctrine of waiver.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. Each cause of action is barred, in whole or in part, because Plaintiffs lack standing and/or do not have a private right of action to pursue the claim.

EIGHTEENTH AFFIRMATIVE DEFENSE

18. Plaintiffs cannot establish that any of their claims are appropriate for class action treatment or representative action treatment.

Defendants further allege that they lack sufficient information upon which to form a belief as to whether they may have additional unstated affirmative defenses as to any purported cause of action in the Complaint, and therefore reserve the right to assert additional defenses in the event discovery indicates such defenses may be appropriate.

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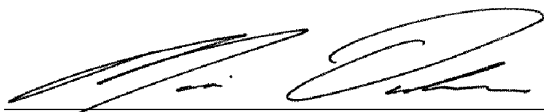
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WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiffs take nothing by way of this Complaint and that judgment be entered in favor of Defendants;
2. That Defendants be awarded their cost of suit and reasonable attorney's fees, including without limitation pursuant to California Labor Code section 218.5; and
3. That Defendants be granted any other relief the Court deems just and proper.

DATED: June 10, 2016

MUNGER, TOLLES & OLSON LLP

By: 
MARJA-LIISA OVERBECK
Attorneys for EAT24, LLC and YELP INC.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 560 Mission Street, Twenty-Seventh Floor, San Francisco, CA 94105-2907.

On June 10, 2016, I served true copies of the following document(s) described as **ANSWER AND GENERAL DENIAL TO PLAINTIFF'S UNVERIFIED AMENDED CLASS ACTION COMPLAINT** on the interested parties in this action as follows:

SERVICE LIST

HOYER & ASSOCIATES
Richard A. Hoyer
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(415) 276-1738


Attorneys for Plaintiffs Christopher Javier,
Amber Johnson and Sandy Manu

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY ELECTRONIC SERVICE: I served the document(s) on the person listed in the Service List by submitting an electronic version of the document(s) to File & ServeXpress, through the user interface at www.fileandservexpress.com.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 10, 2016, at San Francisco, California.



Dolores L. Reves