

1 Laura L. Ho (SBN 173179)  
lho@gbdhlegal.com  
2 Katrina L. Eiland (SBN 275701)  
keiland@gbdhlegal.com  
3 GOLDSTEIN, BORGAN, DARDARIAN & HO  
300 Lakeside Drive, Suite 1000  
4 Oakland, CA 94612  
Tel: (510) 763-9800  
5 Fax: (510) 835-1417

6 Jonathan E. Gertler (SBN 111531)  
Christian Schreiber (SBN 245597)  
7 CHAVEZ & GERTLER LLP  
42 Miller Avenue  
8 Mill Valley, CA 94941  
Tel: (415) 381-5599  
9 Fax: (415) 381-5572

10 Attorneys for Plaintiffs

11 *(additional attorneys listed on next page)*

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 IN AND FOR THE COUNTY OF ALAMEDA  
14 (UNLIMITED JURISDICTION)

15 FEDERICO VILCHIZ VASQUEZ, JESUS  
16 VILCHEZ VASQUEZ, FRANCISCO DOMINGO  
17 CLAUDIO, for themselves and all others similarly  
situated,

18 Plaintiffs,

18 vs.

19 USM, INC. dba USM SERVICES, INC., a  
20 Pennsylvania Corporation; Ross Stores, Inc.  
21 dba Ross Dress for Less, a Delaware Corporation;  
22 Ross Stores, Inc. dba dd's DISCOUNTS, a  
23 Delaware Corporation; and DOES 1 through 20,  
inclusive,

24 Defendants.

Case No.: **RG13 694366**

**COMPLAINT; CLASS AND  
REPRESENTATIVE ACTION [CAL. CODE  
CIV. PROC. § 382]**

- (1) VIOLATION OF CAL. LAB. CODE § 2810
- (2) UNLAWFUL AND/OR UNFAIR BUSINESS PRACTICES (BUS. & PROF. CODE §§ 17200-17208);
- (3) PAGA CLAIM FOR CIVIL PENALTIES (LABOR CODE § 2698 *et seq.*); and,
- (4) REASONABLE ATTORNEYS' FEES AND COSTS

DEMAND FOR JURY TRIAL

ENDORSED  
FILED  
ALAMEDA COUNTY

SEP 05 2013

CLERK OF THE SUPERIOR COURT  
By Angela Yamsuan

1 Paul Cohen (SBN 148371)  
Joanna Shalleck-Klein (SBN 275686)  
2 Daniel R. Weltin, Of Counsel (SBN 226600)  
LEGAL AID OF MARIN  
3 30 North San Pedro Road, Ste. 220  
San Rafael, CA 94906  
4 Tel: (415) 492-0230  
Fax: (415) 492-0947  
5

6 Juliet M. Brodie (SBN 248989)  
STANFORD COMMUNITY LAW CLINIC  
2117 University Avenue  
7 East Palo Alto, CA 94303  
Tel: (650) 725-9200  
8 Fax: (650) 326-4162  
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1 Plaintiffs Federico Vilchiz Vasquez (“Plaintiff F. Vilchiz”), Jesus Vilchez Vasquez (“Plaintiff  
2 J. Vilchez”), and Francisco Domingo Claudio (“Plaintiff Domingo”) (collectively, “Plaintiffs”), on  
3 behalf of themselves and all others similarly situated, allege as follows:

#### 4 INTRODUCTION

5 1. Plaintiffs were employed by local subcontractors to clean Ross Dress for Less and/or  
6 dd’s DISCOUNTS stores in California in connection with the performance of contracts or agreements  
7 for janitorial services and labor between (a) Defendant Ross Stores, Inc. (“Ross”), which operates the  
8 Ross Dress for Less and dd’s DISCOUNTS “off-price” stores, and prime contractor defendant USM,  
9 Inc. dba USM Services, Inc. (“USM”); and (b) prime contractor USM and local subcontractors.  
10 Plaintiffs bring this case as a class action against USM and Ross under California Code of Civil  
11 Procedure § 382 on behalf of themselves and all other janitorial workers who have cleaned a Ross  
12 Dress for Less and/or dd’s DISCOUNTS store in the State of California, at any time from four years  
13 prior to the date of filing of this action through the date of trial, in connection with the performance of  
14 subcontractor agreements for janitorial services with USM for violations of: 1) California Labor Code  
15 § 2810; 2) the California Unfair Competition Law (“UCL”), codified as California Business and  
16 Professions Code § 17200-17208; and 3) the Private Attorneys General Act of 2004 (“PAGA”),  
17 codified as California Labor Code § 2698 *et seq.*

18 2. Plaintiffs allege that USM and Ross have engaged in a janitorial services subcontracting  
19 scheme that results in significant cost-savings to Ross and substantial profits to prime contractor USM,  
20 while depriving the janitorial workers who clean Ross Dress for Less and/or dd’s DISCOUNTS stores  
21 in connection with the performance of subcontractor agreements with USM of the wages to which they  
22 are entitled under California law.<sup>1</sup>

23 <sup>1</sup> As the Los Angeles Times recently reported about the findings of a recent report entitled *Hollow*  
24 *Victories: The Crisis in Collecting Unpaid Wages for California’s Workers*, by the National  
25 Employment Law Project and the UCLA Labor Center, subcontracting schemes such as the one in  
26 which USM has engaged often leave injured employees with no means to recover their unpaid wages.  
27 See Marc Lifsher, *Many Low-Wage Workers Who Won Judgments Were Never Paid*, L.A. TIMES,  
28 June 27, 2013. Many janitorial employees like Plaintiffs work for small, undercapitalized  
subcontractors that do not have the funds to pay their employees the wages they are owed, even when  
employees secure judgments against them. The Times reported that, “[o]ver a recent three-year  
period, thousands of mainly immigrant workers in California who clean buildings . . . won monetary  
judgments against their employers but were never paid.” *Id.* This inability to collect judgments for

1           3.       Under this scheme, Ross contracts with USM to provide janitorial services for some or  
2 all of its Ross Dress for Less and dd's DISCOUNTS store locations around California. In turn, USM  
3 subcontracts with janitorial subcontractors (the "Subs") that hire the workers necessary to perform the  
4 janitorial services USM contracts to provide at the designated retail store locations.

5           4.       On information and belief, the agreements between Ross and USM outline in detail  
6 what stores are to be cleaned, what janitorial services should be performed at these stores, how often  
7 these services should be completed, how many workers are required, when the workers should be  
8 present at the stores, how the work will be monitored, and how much Ross will pay USM. These  
9 agreements further recognize that USM will subcontract with local janitorial businesses that will  
10 supply the labor.

11           5.       The agreement(s) that USM and Ross sign do not include funds sufficient to allow USM  
12 to comply with all applicable local, state, and federal laws or regulations governing the janitorial  
13 services to be provided at Ross Dress for Less and/or dd's DISCOUNTS stores in connection with the  
14 performance of those agreement(s).

15           6.       Ross knows or should know that the funds provided to USM under their agreement(s)  
16 are not sufficient to allow USM to comply with all applicable local, state, and federal laws or  
17 regulations governing the janitorial services to be provided at Ross Dress for Less and/or dd's  
18 DISCOUNTS stores in connection with the performance of those agreement(s).

19           7.       The subcontractor agreements that USM signs with the Subs for the performance of  
20 janitorial services at Ross Dress for Less and/or dd's DISCOUNTS stores in connection with the  
21 performance of the agreements(s) it signs with Ross are form contracts drafted by USM. These  
22 contracts provide, in relevant part, that 1) USM will not pay the Subs until 30 days after it receives all

23 \_\_\_\_\_  
24 unpaid wages is in part because the "companies representing three-fifths of unpaid-wage judgments  
25 legally vanished." *Id.* As the article explained, the "[b]usinesses are dissolved, licenses canceled, and  
26 it's very hard for workers to get their money." *Id.* Meanwhile, prime contractors like USM, who  
27 knowingly underfund these janitorial subcontracts, continue to profit from the employees' labor. This  
28 is precisely the type of scheme that Labor Code § 2810 was enacted to stop. *See* Senate Committee  
Bill Analysis of SB 179 ("This measure attacks the hidden use of unfair economic leverage to  
influence labor contractors to enter into contracts that are financially inadequate to permit the  
contractor to comply with applicable laws. While employers usually claim they are unaware of abuses  
committed by their contractors, the reality is just the opposite.").

1 Work Orders signed by a retail store representative; 2) USM will not pay the Subs unless the retail  
2 store is satisfied with the janitorial services rendered; 3) the Subs must maintain worker's  
3 compensation, general liability, and automotive insurance; and 4) USM unilaterally reserves the right  
4 to discount payments to Subs for services performed if the Subs request accelerated payment or if the  
5 Subs reach a certain volume of payments from USM in a given year.

6 8. USM's subcontractor agreements with the Subs also dictate the specific requirements  
7 for the janitorial services to be performed by the Subs at Ross Dress for Less and/or dd's DISCOUNTS  
8 stores, including which retail stores are to be cleaned, the type work to be performed, the number of  
9 hours per week that must be spent performing the janitorial services, and the amount that USM will  
10 pay the Subs for completing the services detailed in the agreement. The subcontractor agreements that  
11 USM and the Subs sign do not include funds sufficient to allow the Subs to cover their operating  
12 budgets, which include the insurance required by the subcontractor agreements and the wages that  
13 Plaintiffs and other employees of the Subs earn by performing the janitorial services detailed in the  
14 subcontractor agreements.

15 9. USM knows or should know that the subcontractor agreements for janitorial services  
16 that USM enters into with the Subs do not include funds sufficient to allow the Subs to comply with all  
17 applicable local, state, and federal laws or regulations governing the janitorial services to be provided  
18 in violation of California Labor Code § 2810.

19 10. As a result of the insufficient funds provided for in both the agreement(s) between Ross  
20 and USM and the agreements between USM and the Subs, the Subs have routinely failed to pay  
21 Plaintiffs and other similarly-situated janitorial employees the minimum wage, their contracted rate,  
22 and/or overtime premiums. The Subs have also failed to provide Plaintiffs and other similarly-situated  
23 janitorial employees with timely itemized statements accurately showing total hours worked and  
24 applicable hourly rates and have failed to provide them with adequate meal and rest breaks.

#### 25 JURISDICTION AND VENUE

26 11. This Court has jurisdiction over Plaintiffs' and Class Members' claims for damages and  
27 injunctive relief under California Labor Code § 2810.



1           20. Plaintiff F. Vilchiz, a native Spanish speaker, lives in Oakland, California. In or around  
2 February 2012, New Generation Maintenance, an unregistered Alameda County based janitorial  
3 subcontractor, hired Plaintiff F. Vilchiz to provide janitorial services to the Ross Dress for Less store  
4 located at 4408 Las Positas Road in Livermore, California, in connection with the performance of a  
5 subcontractor agreement with USM. Plaintiff F. Vilchiz worked for New Generation Maintenance  
6 performing janitorial services in connection with the performance of a subcontractor agreement with  
7 USM until approximately October 2012.

8           21. Plaintiff J. Vilchez, a native Spanish speaker, lives in Oakland, California. In or around  
9 May 2012, New Generation Maintenance, an unregistered Alameda County based janitorial  
10 subcontractor, hired Plaintiff J. Vilchez to provide janitorial services to the Ross Dress for Less store  
11 located at 4408 Las Positas Road in Livermore, California, in connection with the performance of a  
12 Subcontractor Agreement with USM. Plaintiff F. Vilchiz worked for New Generation Maintenance  
13 performing janitorial services in connection with the performance of a subcontractor agreement with  
14 USM until approximately October 2012.

15 **Defendants**

16           22. USM, which boasts estimated 2013 revenues of \$6.5 billion, is a for-profit corporation  
17 with its headquarters located at 1880 Markley Street, Norristown, PA 19401.

18           23. In May 2011, USM, Inc., listing an address of 1880 Markley Street, Norristown, PA  
19 19401, registered with the California Secretary of State to do business in California as USM Services,  
20 Inc.

21           24. On or around June 30, 2011, Fortune 500 company EMCOR Group, Inc., a Delaware  
22 corporation headquartered in Norwalk, CT, announced that it had completed its acquisition of USM  
23 Services Holdings, Inc. for \$255 million in cash, representing \$225 million for the base USM business  
24 plus \$30 million for the net present value of a USM tax benefit.

25           25. Ross Stores, Inc., which operates two brands of “off-price” stores – Ross Dress for Less  
26 and dd’s DISCOUNTS – is headquartered at 4440 Rosewood Drive in Pleasanton, CA. According to  
27 its 2012 Annual Report and Form 10-K for the fiscal year ended February 2013, Ross ended the year  
28

1 with 1,199 stores in 33 states, the District of Columbia, and Guam; \$9.7 billion in total sales, up from  
2 \$8.6 billion in sales for the 52 weeks ended January 28, 2012; and a 20% increase in net earnings to  
3 \$786.8 million, up from \$657.2 million in 2011.

4 26. The true names and capacities of DOES 1-20, inclusive, whether individual, corporate,  
5 associate, or otherwise, are unknown to Plaintiffs, who therefore sue such defendants by fictitious  
6 names pursuant to California Code of Civil Procedure § 474. Plaintiffs will amend this Complaint to  
7 show the true names, capacities, and involvement of DOES 1-20, inclusive, once they are ascertained.  
8 Plaintiffs are informed, believe, and thereon allege that each of the defendants designated as a DOE is  
9 responsible in some manner for the events, happenings, and omissions described herein, and that  
10 Plaintiffs' injuries and damages were proximately caused by said defendants. Plaintiffs are informed,  
11 believe, and thereon allege that at all times herein mentioned, each of the DOES 1-20, inclusive, was  
12 an agent, employee, successor, predecessor, parent, and/or subsidiary of each of the remaining  
13 defendants, and each of them, was at all times acting within the purpose and scope of the applicable  
14 relationship.

#### 15 **FACTUAL ALLEGATIONS**

16 27. Prime contractor USM provides janitorial services to hundreds of retail chains stores  
17 around the country by subcontracting with a network of "local contractors."<sup>2</sup> Throughout California,  
18 these small, unsophisticated, often-unregistered janitorial subcontracting businesses are run mainly by  
19 immigrants and low-wage workers and rarely operate for longer than a year or two. These Subs, in  
20 turn, hire predominately immigrant workers, many of whom are monolingual Spanish speakers with  
21 limited education and job opportunities, to perform the cleaning services that the Subs subcontract with  
22 USM to complete.

23 28. The Subs routinely receive insufficient funds from USM to maintain their businesses  
24 and compensate their workers in compliance with the law. Accordingly, the Subs fail to pay their  
25 employees the wages they have earned, violate the Labor Code and, eventually, close down shop.

26  
27 <sup>2</sup> USM, Contractor Opportunities in Facilities Maintenance, HBAV Services & Electrical Construction,  
28 [www.usmservices.com/services/janitorial-floor-care](http://www.usmservices.com/services/janitorial-floor-care) (last checked May 2, 2013).



1           29. To promote maximum cost-savings, Ross contracts with USM for the provision of  
2 janitorial services at its Ross Dress for Less and dd's DISCOUNTS stores throughout California,  
3 knowing that, due to the insufficiency of the funds provided for in the contract(s) between Ross and  
4 USM, USM will in turn enter into thinly funded agreements with Subs that do not allow the Subs to  
5 comply with all applicable local, state, and federal laws or regulations governing the labor or services  
6 to be provided.

7           30. Plaintiff Domingo, who worked for Alameda County based Sub RC Maintenance,  
8 Inc. ("RC Maintenance") beginning in or around late 2009, providing janitorial services to various  
9 Oakland retail stores including a Ross Dress for Less store in Alameda County, received no premium  
10 wages for his overtime hours and regularly could not cash his paycheck because of insufficient funds.  
11 When RC Maintenance informed Plaintiff Domingo in or around early January 2012 that it lacked the  
12 money to pay him for work he had performed since mid-November 2011, Plaintiff Domingo resigned.  
13 Soon thereafter, two years after registering with the California Secretary of State, RC Maintenance  
14 went out of business. RC Maintenance's owner, Carlos Rivera, reported that his company went out of  
15 business, in large part, because of the insufficient funds provided by the Subcontractor Agreements  
16 between USM and RC Maintenance.<sup>3</sup>

17           31. In the wake of RC Maintenance, New Generation Maintenance ("New Generation")  
18 began operating in Oakland, and USM engaged the business, despite its never registering with the  
19 County or the State.<sup>4</sup> New Generation hired Plaintiff F. Vilchiz to clean a Ross Dress for Less store in  
20 Livermore, California, in connection with the performance of its Subcontractor Agreement with USM.  
21 Plaintiff F. Vilchiz began working for New Generation in or around February 2012. He received no  
22 compensation for his first month of work, after which New Generation began providing him with a  
23 lump sum cash or check payment after each month of work.

24  
25  
26 <sup>3</sup> RC Maintenance filed with the Secretary of State on January 27, 2009 as Entity No. C3179591,  
27 registering an Entity Address of 3235 MacArthur Blvd., Oakland, CA 94602. RC Maintenance is now  
28 on suspended status with the California Secretary of State.

<sup>4</sup> New Generation's address was 1248 35<sup>th</sup> Avenue, Oakland, CA 94601.

1           32.     In or around May 2012, New Generation hired Plaintiff J. Vilchez to work at the same  
2 Livermore Ross Dress for Less store. Plaintiff J. Vilchez also received no wages for his first month of  
3 work but continued to work for New Generation and received lump sum cash or check payments after  
4 completing subsequent months of work.

5           33.     In or around early October 2012, New Generation informed Plaintiffs F. Vilchiz and J.  
6 Vilchez that it lacked the funds to pay them for their previous month's work, so the men resigned. On  
7 information and belief, New Generation has since ceased operations.

8           34.     Bearing in mind the requirements and payments outlined in its agreement(s) with Ross,  
9 USM dictated the terms of its Subcontractor Agreements with both RC Maintenance and New  
10 Generation—including the janitorial services to be performed at each store location, the hours of labor  
11 required to complete the contracted-for services, and the amount that the Sub would be paid for these  
12 services.

13           35.     However, as Ross knew or should have known would be the result of its insufficiently  
14 funded agreement(s) with USM, the amount that USM agreed to pay the Subs was insufficient to  
15 comply with all applicable laws and the costs required to complete the janitorial services that the  
16 Subcontractor Agreements required the Subs to perform.

17           36.     In addition, USM reduced its promised payments to the Subs even after the work had  
18 been performed.

19           37.     Since at least 2008, Ross and USM have conspired to systematically engage local  
20 janitorial subcontractors to clean Ross Dress or Less and/or dd's DISCOUNTS stores throughout  
21 California, while imposing upon these Subs contractual arrangements that they know or should know  
22 do "not include funds sufficient to allow the [Subs] to comply with all applicable local, state, and  
23 federal laws or regulations governing the labor or services to be provided," in violation of Labor Code  
24 § 2810.

25     **Ross and USM Establish Services**

26           38.     On information and belief, the agreement(s) between USM and Ross outline in detail  
27 what Ross Dress for Less and/or dd's DISCOUNTS stores are to be cleaned, what janitorial services  
28

1 should be performed at these stores, how often these services should be completed, how many workers  
2 are required, when the workers should be present at the stores, how the work will be monitored, and  
3 how much Ross will pay USM. These agreements further recognize that USM will not hire the  
4 workers directly but will instead subcontract with local businesses that will supply the labor.

5 39. The janitorial services for which Ross contracts with USM generally fall into two  
6 categories: (1) daily or regular basic cleaning and (2) periodic floor scrubbing, recoating, and buffing,  
7 an overnight process that the janitors call "floor stripping." Often, the janitors complete the basic  
8 cleaning service under the supervision of a store manager during the 2-3 hours either before a store  
9 opens or after it closes. In addition, each store receives a floor buffing, scrubbing and recoating  
10 service about once a month. The workers who complete this floor polishing are often locked into a  
11 store overnight without supervision.

12 40. To ensure that the Subs provide the correct services, USM and Ross memorialize the  
13 requirements for each service in various documents that USM provides to the Subs, including manuals,  
14 instruction sheets, and PowerPoint presentations.<sup>5</sup>

15 41. As these documents reflect, since at least 2008, the basic cleaning Ross and USM have  
16 required the Subs to provide on a daily or regular basis has been standardized and specific: sweeping  
17 and mopping of tiled areas; cleaning of mirrors and front door glass; vacuuming of mats and carpets;  
18 cleaning of all counters; emptying of all wastebaskets; cleaning and sanitizing of all fixtures; refilling  
19 of dispensers and cleaning of sinks, stalls, and toilets in the bathroom; cleaning of all mirrors; dusting  
20 of all partitions; washing of windows; wiping down of fittings rooms; and dusting signs, art and vents.

21 42. Likewise, USM and Ross have developed standard practices for how and when the floor  
22 buffing, scrubbing, and recoating should occur and what rules the workers must follow when in the  
23 stores overnight, including such details as the type of finish the workers should use and the number of  
24 coats that should be applied, and a clear mandate that workers "must not exit the Store for any reason

25 \_\_\_\_\_  
26 <sup>5</sup> For instance, USM Senior Director Jimmy Henley and Ross Contract Services Manager Ryan  
27 Benguerel produced and dispensed a PowerPoint presentation on or around October 28, 2008, that  
28 outlined the janitorial services that should be completed every day in/on the sales floor, the customer  
service area, the restrooms, the fitting rooms, the outside of the building, the lounge, the offices, and  
the miscellaneous area of each Ross store.

1 (except an emergency) during the night,” and if a worker tries to leave before a Ross employee arrived  
2 in the morning, then “a silent alarm will sound and police will be called.”<sup>6</sup>

3 **Subcontractor Agreement**

4 43. When engaging the Subs that that will provide the agreed-upon services to meet Ross’s  
5 janitorial needs, USM requires the Subs to sign a standard Subcontractor Agreement, a form contract  
6 drafted by USM, which has remained the same in all parts material to Labor Code § 2810 since at least  
7 2008.

8 44. Attached as Exhibit A is the Subcontractor Agreement, executed on July 17, 2008,  
9 between USM and Sub Cleanmex, which contracted with USM to provide janitorial services to over 10  
10 Ross Dress for Less and dd’s DISCOUNTS stores throughout the Bay Area.

11 45. Attached as Exhibit B is the Subcontractor Agreement, executed on April 30, 2009,  
12 between USM and RC Maintenance, the now-dissolved Sub that hired Plaintiff Domingo.

13 46. Attached as Exhibit C are the “materials related to your service as a USM, Inc (“USM”)  
14 contractor,” including a blank Subcontractor Agreement, which USM has been providing to the Subs it  
15 engages since at least 2012.

16 47. In all three agreements, the contracting parties are listed as USM, Inc., with an address  
17 of 1880 Markley Street, Norristown, Pennsylvania, 19401, and the Sub.

18 48. On information and belief, these three contracts, which are identical in all parts material  
19 to Labor Code § 2810, reflect the Subcontractor Agreements between USM and all the Subs it has  
20 engaged since 2008 for the provision of janitorial services at Ross Dress for Less and dd’s  
21 DISCOUNTS stores throughout California.

22 49. In these Agreements, USM requires its Subs to assume all costs associated with  
23 overhead, equipment and other materials, mandating:

24 [Y]ou are required to furnish at your own expense all supervision, labor,  
25 equipment, materials, and supplies to provide the Services. You agree to

26 <sup>6</sup> The forms developed by USM and Ross included the “Overnight Service Vendor Responsibilities  
27 Checklist,” a “Scrub-and-Recoat” explanation sheet, a “Wet Work Scope of Work” instruction sheet, a  
28 “Wet Work: Overnight Spot Strip Vendor Responsibilities Checklist,” a “Wet Work: Scrub and Recoat  
Vendor Responsibilities Checklist.”

1 use materials, products, and equipment approved by our customer(s) for  
2 the Services, and you agree to keep such equipment in satisfactory  
condition and in safe-working order.

3 (Exhibit A at 1; Exhibit B at 1; Exhibit C at 3.)

4 50. USM also instructs the Subs to obtain and pay for Workers' Compensation and liability  
5 insurance:

6 Prior to the commencement of the Services, you shall obtain and  
7 maintain or cause to be obtained and maintained the following insurance,  
8 in amounts not less than those specified below: (1) Workers'  
9 Compensation . . . (2) Employer's Liability insurance in an amount not  
10 less than \$100,000 each accident, \$100,000 each disease, \$200,000 in the  
11 aggregate for each statute in which your employees engage in Services  
12 under this Agreement. (3) Comprehensive General Liability (CGL) on  
ISO Form CG 00 01 12 04 with limits of liability of not less than: (i)  
Each Occurrence: \$1,000,000 (ii) Each offense \$1,000,000 (iii) General  
aggregate \$2,000,000 (iv) Product-Completed Operates Aggregate  
\$3,000,000 (v) Fire Damages (any one person) \$50,000 (vi) Medical  
Expense (any one person) \$5,000 . . . . (4) Comprehensive Automobile  
Liability . . .

13 (Exhibit A at 2-3; Exhibit B at 2-3; Exhibit C at 4-5.)

14 51. In the Subcontractor Agreement, USM establishes that (1) it will supply the Subs with  
15 future "schedules" that will specify the stores to be cleaned, the services to be provided, the hours of  
16 labor required, and the commission to be paid; and (2) after completing the required services each day,  
17 the workers must have their store supervisors sign off on their "work orders," daily, weekly or monthly  
18 catalogues of the janitor's performance that the Subs must submit to USM once completed in order to  
19 be paid. Specifically, the Agreements provide:

20 We will set forth the specifications and pricing on one or more schedules  
21 to this Agreement, which you must sign and return prior to commencing  
22 any Services. Additionally . . . we will provide you with a work order  
23 that must be signed by our customer following completion of Service (a  
24 "Work Order"). You must perform all the Services per the specifications  
and to our customer's satisfaction. You will perform the Services on the  
25 days and during the hours specified by our customer(s). . . . You will  
26 comply with all procedures specified by us and our customers in  
27 performing the Services.

28 (Exhibit A at 1; Exhibit B at 1; Exhibit C at 3.)

52. USM provides the Subs will get paid only after receiving completed Worker Orders:

On the last day of each month, you must submit all Work Order(s)  
signed by our customer's authorized representatives during the month,

1 together with an invoice reconciling that month's activity for each  
2 customer. . . . Your timely submission of an invoice is a condition  
3 precedent to our obligation to pay you. Subject to the terms of this  
4 Section , we shall send your payment 30 days after the date that we  
5 receive and process your invoice. . . .

6  
7  
8  
9 53. At the same time, USM reserves the right to pay less than the amount promised in the  
10 Schedules if the Sub does not satisfy several obligations:

11 We will make payment to you as long as (i) we have received you  
12 invoice within 120 days from the last day of the month that you provided  
13 the Services; (ii) we have received all properly executed Work Orders  
14 and other schedules; (iii) we have received your insurance certifications  
15 evidencing the requisite coverage; and (iv) our customer is satisfied. . . .

16 (Exhibit A at 1; Exhibit B at 1; Exhibit C at 3.)

17 54. USM further asserts that it does not have to pay for work that a retail store does not  
18 deem satisfactory in any way and for any reason:

19 You will immediately correct, without additional charge[,] any Service  
20 that does not meet the specifications, and we may deduct up to the full  
21 amount due to you for any Service that you do not correct. You further  
22 will replace any crew or individual employee upon the request of our  
23 customer and that you will do so within 24 hours of receiving notice  
24 from us of the customer's request.

25 (Exhibit A at 1; Exhibit B at 1; Exhibit C at 3.)

26 55. USM establishes that it will discount the payment further if a Sub requests timely  
27 reimbursement or provides consistent services:

28 At your request we may, but are not obligated to pay you all or a portion  
of the amount invoiced prior to the expiration of the Payment Period  
("Rapid Payment"). In consideration of the Rapid Payment, we may  
discount the amount advanced to you by up to 5%. . . . If your business  
with us grows to the level that we have paid you at least \$10,000 in any  
twelve month period, then we may automatically discount payments to  
you by 4% of the total amount of your invoice.

(Exhibit A at 1; Exhibit B at 1; Exhibit C at 3.)

56. Finally, USM absolves itself of any obligation to pay the Sub if USM does not get paid  
by the Retailer:

We are not obligated to pay you until we receive payment from our  
customer for the Services that you provide.

1 (Exhibit A at 1; Exhibit B at 1; Exhibit C at 3.)

2 **Schedules**

3 57. On information and belief, the Schedules that USM provided to Sub Cleanmex, which  
4 were signed in or around October 2008 regarding the provision of janitorial services for approximately  
5 3 dd's DISCOUNTS and 8 Ross Dress for Less stores in Alameda and surrounding counties, are  
6 illustrative of the Schedules USM imposes on its Subs.

7 58. Attached as Exhibit D, these Schedules mandate that Cleanmex assign two people to  
8 each store for (1) three hours of routine cleaning seven days a week and (2) approximately 12.5 hours  
9 of overnight floor buffing once a month. Thus, in total, USM required approximately 205 hours of  
10 labor per store per month. Per the schedules, USM would pay Cleanmex \$1,200 per month per store.

11 59. Compensation of \$1,200 per month for both workers, who have labored a total of 205  
12 hours in the month, breaks down to \$5.85 per hour—significantly less than the \$8.00 minimum wage  
13 that has been in effect in California since January 1, 2008.

14 60. Nonetheless, under the Subcontracting Agreement, Cleanmex had to extend these  
15 insufficient funds to cover not just employee wages but also insurance, equipment and supplies,  
16 payroll, overhead and other costs.

17 61. Thus, even without considering the discounted amounts that USM ultimately paid for  
18 the services performed under the Subcontractor Agreement, USM and Ross imposed a funding  
19 arrangement on Cleanmex that was insufficient “to allow the [Sub] to comply with all applicable local,  
20 state, and federal laws or regulations governing the labor or services to be provided,” in violation of  
21 Labor Code § 2810.

22 62. On information and belief, the Schedules that USM provides the Subs that it engages to  
23 clean Ross Dress for Less and dd's DISCOUNTS stores throughout California are regularly  
24 insufficient to cover (a) regular and overtime wages workers earn performing the janitorial services  
25 that the Schedules require; (b) worker's compensation and other employee benefits; (c) the costs of  
26 purchasing and maintaining cleaning supplies and equipment; (d) multiple insurance policy premiums;  
27 (e) business supplies; (f) wages and benefits for business office employees; (g) costs associated with  
28

1 maintaining the records and providing the wage statements required by the California Labor Code;  
2 (h) overhead costs; (i) taxes; and (g) other standard expenses incurred by small janitorial businesses, in  
3 violation Labor Code § 2810.

4 **Provision of Services, Work Orders, and Discounted Payment**

5 63. While at the stores they are assigned to clean, janitorial workers are regularly required  
6 to identify themselves as USM vendors. For example, Plaintiff Domingo was instructed to wear a  
7 badge captioned with a logo that identified him as affiliated with “USM An EMCOR Company.”

8 64. Using various different supervision mechanisms, USM and Ross monitor the workers to  
9 ensure that they satisfactorily provide all required services.

10 65. First, they require that the workers document their arrival and departure through a  
11 phone message service. For instance, New Generation instructed Plaintiff F. Vilchiz and Plaintiff J.  
12 Vilchez to call a specific number using the Ross Dress for Less store’s phone upon arriving at work  
13 and leave a message with their name, hour of arrival, and city and name of the store. Likewise, New  
14 Generation told them to call the same number upon departing the store and leave a message with their  
15 name, hour of departure, name and city of store, and information about any problems with the  
16 equipment. On information and belief, USM mandated that New Generation provide these instructions  
17 to its janitorial workers.

18 66. Second, as forecasted in the Subcontractor Agreements, USM and Ross design “Work  
19 Orders,” which articulate the specific tasks that must be completed and how often they must be done.  
20 USM and Ross provide these Work Orders to the Subs, who then distribute them to the workers.  
21 Illustrative of the Work Orders that USM and Ross required the Subs to provide the workers are the  
22 “Daily Janitorial Service Sign-Off Sheets” and “Periodic Janitorial Service Sign-Off Sheets” that New  
23 Generation distributed to Plaintiffs F. Vilchiz and J. Vilchez for their work at the Livermore Ross Store  
24 in September 2012, attached as Exhibit E.

25 67. Third, USM and Ross require that Ross Dress for Less and dd’s DISCOUNTS store  
26 managers sign off on the Work Orders each day, memorializing what services were performed, when  
27 the workers arrived and departed, and whether there were problems.



1           68.     Fourth, as USM warns in its Subcontractor Agreements, it refuses to provide payment  
2 for completed services until receiving “properly executed Work Orders.”

3           69.     On information and belief, through the creation and review of these Work Orders and  
4 other information it obtained from Ross and the Subs, USM knew or should have known that the scope  
5 of services required regularly could not be completed within the timeframes outlined in the Schedules,  
6 forcing the janitors to work even more hours than provided for in the Schedules.

7           70.     On information and belief, through the creation and review of these Work Orders and  
8 its daily supervision of the workers, Ross knew or should have known how many hours of labors and  
9 what equipment were necessary to enable fulfillment of the services its requested.

10          71.     In addition, Carlos Rivera, the owner of RC Maintenance, has reported that USM  
11 regularly invoked the discount provisions of the Subcontractor Agreement and paid significantly less  
12 than the amount promised under the Schedules he signed with USM. On information and belief, USM  
13 often invoked its discount provisions with all of the Subs it engaged to provide janitorial services to  
14 Ross Dress for Less and dd’s DISCOUNTS stores throughout California.

15          72.     On information and belief, USM regularly paid the Subs that it contracted with to  
16 provide janitorial services at Ross and or dd’s DISCOUNTS stores in California less than the amounts  
17 outlined in the Schedules.

18     **Plaintiff Domingo**

19          73.     In or around October 2010, RC Maintenance hired Plaintiff Domingo to provide  
20 janitorial services to several retail stores throughout Alameda County and Marin County in connection  
21 with the performance of a Subcontractor Agreement with USM.

22          74.     Through approximately January 2012, Plaintiff Domingo cleaned a variety of stores, but  
23 he dedicated most of his time to Ross Dress for Less and PETCO stores.

24          75.     While his schedule varied, he regularly provided basic cleaning services for his  
25 assigned Ross Dress for Less store(s) approximately three hours per day, several days per weeks, either  
26 before or after the stores opened. In addition, approximately two times per month, he did overnight  
27 floor buffering at his assigned Ross Dress for Less store(s) for approximately ten hours per night.

1           76.     RC Maintenance instructed him to wear a name badge with the “USM an EMCOR  
2 Company” logo. On information and belief, USM either provided this badge or instructed RC  
3 Maintenance to design it.

4           77.     RC Maintenance contracted with Plaintiff Domingo to pay him \$8 per hour on a  
5 bimonthly basis. When he was paid, Plaintiff Domingo received a payroll check from RC  
6 Maintenance for a half-month of work. These checks were often received weeks after the work was  
7 completed and they often reflected fewer hours that Plaintiff Domingo had worked.

8           78.     Plaintiff Domingo was regularly deprived of minimum, overtime, and regular wages.

9           79.     Approximately five times before December 2011, RC Maintenance gave Plaintiff  
10 Domingo a payroll check that Plaintiff Domingo could not cash because there were insufficient funds  
11 in RC Maintenance’s bank account. These checks include one dated November 30, 2011, in the  
12 amount of \$494.59 for Plaintiff Domingo’s work the first half of November and one dated November  
13 4, 2011, in the amount of \$572 for Plaintiff Domingo’s work during the second half of September.

14          80.     Plaintiff Domingo never received any cash or check for the work he performed from  
15 mid-November 2011 through his last day of work in early January 2012.

16          81.     When Plaintiff Domingo asked why he had not received the wages he had earned, RC  
17 Maintenance’s owner Carlos Rivera explained that USM had not provided him with enough money to  
18 run his business and pay his workers.

19          82.     Mr. Rivera reports that, around November 2011, USM informed Mr. Rivera that the  
20 company would not pay any money it owed RC Maintenance for services rendered until RC  
21 Maintenance resolved a separate wage claim that a previous RC Maintenance employee had filed with  
22 the California Labor Commissioner against RC Maintenance, USM, and Michaels Stores.

23          83.     Plaintiff Domingo resigned on or around January 7, 2012. In or around June 2012,  
24 Plaintiff Domingo sent a demand letter to RC Maintenance requesting his unpaid wages and other  
25 damages and penalties to which he was entitled under the California Labor Code.

26          84.     However, by that time, RC Maintenance had gone out of business. According to  
27 Mr. Rivera, USM destroyed his business by underpaying him for the services he had provided.

1 **Plaintiffs F. Vilchiz and J. Vilchez**

2 85. On or around February 25, 2012, New Generation, an unregistered Alameda County  
3 based janitorial Sub, hired Plaintiff F. Vilchiz to clean Ross Dress for Less store #264, located at 4408  
4 Las Positas Road in Livermore, California. New Generation agreed to pay Plaintiff F. Vilchiz a  
5 monthly lump sum of \$625 for 2-3 hours of janitorial work in the morning before the Livermore Ross  
6 Dress for Less store opened, seven days a week.

7 86. New Generation instructed Plaintiff F. Vilchiz that, each day, he must call and leave a  
8 message at a specified phone number upon arriving at and leaving from work and must get the Ross  
9 Dress for Less store manager to sign his "Daily Janitorial Service Sign-Off Sheet."

10 87. Plaintiff F. Vilchiz worked for a month and, at its end, received no compensation. His  
11 New Generation manager told him that the company needed to keep his first month's wages as a  
12 "deposit." Plaintiff F. Vilchiz never received this money.

13 88. Despite his initial month of unpaid work, Plaintiff F. Vilchiz continued working for  
14 New Generation. For the rest of the year, he received \$625 in cash or by check at the end of each  
15 month.

16 89. On or around May 30, 2012, New Generation hired Plaintiff J. Vilchez. Again, New  
17 Generation agreed to pay \$625 per month for 2-3 hours of work per day, seven days per week.

18 90. Like Plaintiff F. Vilchiz, Plaintiff J. Vilchez received no compensation for his first  
19 month of work, which New Generation kept as a "deposit." For the rest of the year, he too received  
20 \$625 in cash or by check at each month's end.

21 91. The checks that Plaintiffs F. Vilchiz and J. Vilchez received from New Generation did  
22 not reflect the hours they had worked.

23 92. As instructed, each day, Plaintiffs F. Vilchiz and J. Vilchez had a Ross Dress for Less  
24 store Manager or Assistant Store Manager initial their Daily Janitorial Service Sign-Off Sheet, which  
25 provided a place for the manager to indicate whether two men were present and whether they had  
26 completed all required tasks on/in the sales floor, the customer service area, the restrooms, the fitting  
27 rooms, the exterior of the store, the lounge, the offices, the door glass, and the mirrors.



1 All persons who were employed by a Sub to clean a Ross Dress for Less  
2 and/or dd's DISCOUNTS store in California in connection with the  
3 performance of a subcontractor agreement with USM at any time from  
four years prior to the date of filing of this action through the date of  
trial.

4 During the Class Period, Class Members worked for Subs as janitorial workers cleaning Ross Dress for  
5 Less and/or dd's DISCOUNTS stores in connection with the performance of (a) agreement(s) between  
6 Ross and USM, which Ross knew or should have known did not provide sufficient funds to enable  
7 USM to comply with all applicable local, state, and federal law and regulations governing the janitorial  
8 services to be provided; and (b) subcontractor agreements between USM and Subs that USM knew or  
9 should have known did not provide sufficient funds to enable the Subs to comply to comply with all  
10 applicable local, state, and federal law and regulations governing the janitorial services to be provided.

11 99. While cleaning Ross Dress for Less and/or dd's DISCOUNTS stores in connection with  
12 the performance of subcontractor agreements with USM, Plaintiffs and Class Members were not paid  
13 for all of the hours they worked at the minimum wage, as required by I.W.C. Wage Order No. 5 § 4,  
14 and Labor Code §§ 219, 221, 222, 223, 224, 1182.12, 1194, 1197, 1197.1, *et seq.* and/or in violation of  
15 the UCL (Cal. Bus. & Prof. Code §§ 17200-17208); were encouraged, suffered, permitted, and/or  
16 required to work in excess of forty (40) hours per week and/or eight (8) hours per day and/or on a  
17 seventh consecutive day without being paid proper overtime compensation, as required by Wage Order  
18 No. 5 § 3 and California Labor Code §§ 510, 1194, and/or in violation of the UCL (Cal. Bus. & Prof.  
19 Code §§ 17200-17208); were not paid their agreed-upon hourly wage for each hour worked, as  
20 required by Labor Code §§ 221-23 and their contracts with the Subs, and/or in violation of the UCL  
21 (Cal. Bus. & Prof. Code §§ 17200-17208); were not provided meal periods of at least one half hour  
22 after every five hours worked in a day in violation of California Labor Code §§ 226.7, 512, and Wage  
23 Order 5 § 11, and/or in violation of the UCL (Cal. Bus. & Prof. Code §§ 17200-17208); were not  
24 timely paid their total accrued compensation at time of termination of employment, in violation of  
25 California Labor Code §§ 201-203, and/or in violation of the UCL (Cal. Bus. & Prof. Code §§ 17200-  
26 17208); and were denied an itemized statement of total hours worked with each payment of wages, as  
27  
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1 required by California Labor Code § 226, and/or in violation of the UCL (Cal. Bus. & Prof. Code  
2 §§ 17200-17208). Plaintiffs are members of the class they seek to represent.

3 **Numerosity of Class**

4 100. The potential members of the class as defined are so numerous that joinder of all Class  
5 Members is impracticable. Although the precise number of such employees is unknown, Plaintiffs  
6 believe that there are at least 40 class members. The exact number is easily ascertained from USM's,  
7 Ross's, and the Subs' records, which are presently within the control of USM, Ross, and the Subs.

8 **Existence and Predominance of Common Questions of Fact and Law**

9 101. There are questions of law and fact common to the class that predominate over any  
10 questions affecting only individual members of the class, including without limitation, whether, as  
11 alleged herein, (a) Ross has entered into a contract or agreement for the provision of labor or services  
12 at a Ross Dress for Less and/or dd's DISCOUNTS store in California with a janitorial contractor,  
13 where Ross knew or should have known that the contract or agreement did not include funds sufficient  
14 to allow the contractor to comply with all applicable local, state, and federal law and regulations  
15 governing the janitorial services to be provided and (b) USM has entered into a contract or agreement  
16 for the provision of labor or services at a Ross Dress for Less and/or dd's DISCOUNTS store in  
17 California with a janitorial contractor, where USM knew or should have known that the contract or  
18 agreement did not include funds sufficient to allow the contractor to comply with all applicable local,  
19 state, and federal law and regulations governing the janitorial services to be provided.

20 **Typicality**

21 102. The claims of the Plaintiffs are typical of the claims of the class they seek to represent.  
22 Plaintiffs and Class Members have worked for Subs cleaning Ross Dress for Less and/or dd's  
23 DISCOUNTS stores in connection with the performance of (a) agreement(s) between Ross and USM,  
24 which Ross knew or should have known did not provide sufficient funds to enable USM to comply  
25 with all applicable local, state, and federal law and regulations governing the janitorial services to be  
26 provided; and (b) subcontractor agreements between Subs and USM that USM and/or Ross knew or  
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1 should have known did not provide sufficient funds to allow the Subs to comply with all applicable  
2 local, state, and federal law and regulations governing the janitorial services to be provided.

3 103. Plaintiffs and Class Members have the same rights under the California Labor Code to  
4 be paid for all hours worked and to receive breaks and wage statements that comply with the law.  
5 Plaintiffs and all Class Members were subjected to the same violations of their rights under California  
6 law by USM and Ross and have suffered damages, including unpaid wages, resulting from USM's and  
7 Ross's wrongful conduct. In addition, Plaintiffs and the Class Members are entitled to injunctive and  
8 equitable relief, as permitted by law, because USM's and Ross's violations of state statutes have  
9 harmed the Class Members and constitute an unfair business practice, especially when compared to  
10 those competitors who comply with the law by providing sufficient funds when subcontracting for  
11 janitorial services to allow the subcontractor to comply with all applicable local, state, and federal laws  
12 or regulations governing the labor or services to be provided.

13 **Adequacy of Representation**

14 104. Class Representatives Plaintiffs Domingo, J. Vilchez, and F. Vilchiz will fairly and  
15 adequately represent and protect the interests of the Class Members. Plaintiffs' interests are not in  
16 conflict with those of the Class Members. Plaintiffs' counsel are competent and experienced in  
17 litigating large employment class actions and other complex litigation matters.

18 **Superiority of Class Action**

19 105. A class action is superior to other available means for the fair and efficient adjudication  
20 of this controversy. Each Class Member has been damaged and is entitled to recovery because  
21 (a) Ross knows or should know that it has entered into agreements for labor or services at Ross Dress  
22 for Less and/or dd's DISCOUNTS stores with prime janitorial contractor USM that do not provide  
23 sufficient funds to allow USM to comply with all applicable local, state, and federal law and  
24 regulations governing the janitorial services to be provided; and (b) USM and/or Ross know or should  
25 know that USM has entered into agreements for labor or services at Ross Dress for Less and/or dd's  
26 DISCOUNTS stores with Subs that do not provide sufficient funds to allow the Subs to comply with  
27 all applicable local, state, and federal law and regulations governing the janitorial services to be  
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1 provided. The damages suffered by individual Class Members are small compared to the expense and  
2 burden of individual prosecution of this litigation. Individual plaintiffs may lack the financial  
3 resources to vigorously prosecute a lawsuit against USM and Ross to recover damages stemming from  
4 USM's and Ross's unlawful subcontracting practices. In addition, class litigation is superior because it  
5 will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about  
6 the legality of Ross's and USM's janitorial contracting practices.

7  
8 **FIRST CAUSE OF ACTION**  
**Labor Code § 2810**

9 106. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

10 107. Ross entered into contract(s) or agreement(s) for labor or services with prime contractor  
11 USM for the provision of janitorial services at Ross Dress for Less and dd's DISCOUNTS stores  
12 throughout California through USM's network of Subs. Ross knew or should have known that the  
13 contract(s) or agreement (s) did not include sufficient funds to allow USM to comply with all  
14 applicable local, state, and federal laws or regulations governing the labor or services to be provided.

15 108. On information and belief, the agreement(s) between Ross and USM do not satisfy all  
16 the requirements of Labor Code § 2810(d).

17 109. In connection with the performance of its contract(s) and agreement(s) with Ross, USM  
18 contracted with the Subs to perform janitorial services at Ross Dress for Less and/or dd's  
19 DISCOUNTS stores throughout California. On information and belief, USM entered into these  
20 subcontractor agreements knowing that they did not include sufficient funds to allow the Subs to  
21 comply with all applicable local, state, and federal laws or regulations governing the janitorial services  
22 provided. In the alternative, USM should have known when it entered into these subcontractor  
23 agreements that the subcontractor agreements did not include sufficient funds to allow the Subs to  
24 comply with all applicable local, state, and federal laws or regulations governing the janitorial services  
25 provided.

26 110. The subcontractor agreements between USM and the Subs do not satisfy all the  
27 requirements of Labor Code § 2810(d).



1 111. On information and belief, given the compensation that Ross was providing to USM,  
2 Ross knew or should have known that, in order to fulfill its obligations under its contract(s) with Ross,  
3 USM entered into agreements with Subs that did not include sufficient funds to allow the Subs to  
4 comply with all applicable laws and regulations governing the janitorial services provided.

5 112. Plaintiffs and the Class Members have been injured as a result of violations of the wage  
6 and hour laws and regulations, as set forth herein, in connection with the performance of the services  
7 provided for by the insufficiently funded subcontractor agreements between USM and the Subs and  
8 between USM and Ross.

9 113. Plaintiffs and the Class Members are aggrieved employees as defined in Labor Code  
10 § 2810(g) and seek to recover their actual damages or statutory penalties, whichever is greater, and  
11 injunctive relief, as alleged herein, as well as costs and reasonable attorney's fees from USM and Ross.

12 **SECOND CAUSE OF ACTION**  
13 **Business and Professions Code § 17200, *et seq.***

14 114. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

15 115. Based upon information and belief, Ross has engaged in unlawful, unfair and/or  
16 fraudulent business acts and practices by entering into contracts or agreements with prime janitorial  
17 contractor USM for services or labor to be performed at Ross Dress for Less and/or dd's DISCOUNTS  
18 stores where Ross knew or should have known that the agreements did not include funds sufficient for  
19 USM to comply with all applicable laws and regulations governing the janitorial services to be  
20 provided, in violation of Labor Code § 2810.

21 116. Based upon information and belief, USM has engaged in unlawful, unfair and/or  
22 fraudulent business acts and practices by entering into contracts or agreements with Subs for services  
23 or labor to be performed at Ross Dress for Less and/or dd's DISCOUNTS stores where USM knew or  
24 should have known that the agreements did not include funds sufficient for the Subs to comply with all  
25 applicable laws and regulations governing the janitorial services to be provided, in violation of Labor  
26 Code § 2810.

1 117. Ross's and USM's unlawful, unfair, and/or fraudulent business acts have caused harm  
2 to Plaintiffs.

3 118. Plaintiffs are informed and believe that USM and Ross engaged in the same or similar  
4 unlawful, unfair, and/or fraudulent business acts against the Class Members described herein and that  
5 Ross's and USM's conduct caused harm to the Class Members.

6 119. Consequently, USM and Ross are liable to compensate Plaintiffs and the Class  
7 Members in restitution and should be enjoined from further violations of Labor Code § 2810.

8 **THIRD CAUSE OF ACTION**  
9 **Violation of the Private Attorneys General Act ("PAGA")**  
10 **[Cal. Labor Code § 2698 *et seq.*]**

11 120. Plaintiffs re-allege and incorporate all paragraphs above as though fully set forth herein.

12 121. Plaintiffs F. Vilchiz and J. Vilchez ("PAGA Plaintiffs") seek to recover the PAGA civil  
13 penalties through a representative action as permitted by PAGA and the California Supreme Court in  
14 *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims is  
15 not required, but Plaintiffs may choose to seek certification of the PAGA claims.

16 122. Labor Code § 2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per  
17 pay period, per aggrieved employee for the initial violation of Labor Code § 2810 and two hundred  
18 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

19 123. PAGA Plaintiffs will fully comply with the procedural requirements specified in  
20 California Labor Code § 2699.3 as to each of the alleged violations. A true and correct copy of the  
21 notice sent via certified mail to the Defendants and California's Labor and Workforce Development  
22 Agency is attached as Exhibit F.

23 124. Enforcement of statutory provisions to protect workers and to ensure proper and prompt  
24 payment of wages is a fundamental public interest. PAGA Plaintiffs' successful enforcement of  
25 important rights affecting the public interest will confer a significant benefit upon the general public.  
26 PAGA Plaintiffs are incurring a financial burden in pursuing this action, and it would be against the  
27 interests of justice to require the payment of attorneys' fees and costs from any recovery obtained,  
28 pursuant to, *inter alia*, California Labor Code § 2699.

1 125. As a result of the violations alleged, PAGA Plaintiffs, as aggrieved employees on behalf  
2 of themselves and other aggrieved employees, seek all civil penalties available pursuant to California  
3 Labor Code § 2699, including all civil penalties, attorneys' fees, expenses, and costs of suit.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs seeks the following relief:

- 6 1. Certification of Plaintiffs' claims as a class action, pursuant to California Code of Civil  
7 Procedure § 382, on behalf of the proposed class;
- 8 2. Class notice to all janitorial employees who cleaned Ross and/or dd's DISCOUNTS  
9 stores in California in connection with the performance of a subcontractor agreement with USM from  
10 four years prior to the filing of this Complaint through the trial of this action pursuant to the statute of  
11 limitations on the UCL claims, California Business & Professions Code § 17208;
- 12 3. A declaratory judgment that USM has violated Labor Code § 2810 as to Plaintiffs and  
13 the Class Members;
- 14 4. Monetary damages, including all unpaid wages and interest thereon;
- 15 5. Restitution for unpaid wages;
- 16 6. Injunctive relief pursuant to Business and Professions Code, sections 17202 and 17203  
17 and Labor Code § 2810;
- 18 7. An award to Class Representative Plaintiffs and the Class Members of reasonable  
19 attorneys' fees and costs, pursuant to California Civil Procedure Code § 1021.5, California Labor Code  
20 § 2810, and/or other applicable law; and,
- 21 8. An award of such other and further relief as this Court may deem appropriate.

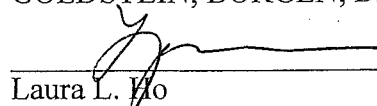
22 **DEMAND FOR JURY TRIAL**

23 Plaintiffs hereby demand trial by jury to the extent authorized by law.

24 Dated: September 5, 2013

Respectfully submitted,

25 GOLDSTEIN, BORGEN, DARDARIAN & HO

26   
27 \_\_\_\_\_  
Laura L. Ho

28 Attorneys for Plaintiffs