

Exhibit A

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14 IN THE UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 Philip Wong, Frederic Chaussy, Ryan
17 Kanazawa, Stephany Hor a/k/a Guec Muy
Hor, and Christine Lim,

18 Plaintiffs,

19 vs.

20 HSBC Mortgage Corporation (USA);
21 HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

22 Defendants.
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Case No.: 3:07-cv-2446 MMC

THIRD AMENDED COMPLAINT FOR DAMAGES

(1) Violations of Fair Labor Standards Act, 29 U.S.C. Section 201, et seq.

DEMAND FOR JURY TRIAL

1 locations in San Francisco, Redwood City, San Mateo, Palo Alto, Milpitas, Cupertino, Oakland,
2 and Fremont, California, around New Jersey, and around New York.

3 9. Defendant HSBC Bank USA, N.A., is a corporation doing business in and
4 maintaining places of business in several states throughout the United States facilities in San
5 Francisco, Redwood City, San Mateo, Palo Alto, Milpitas, Cupertino, Oakland, and Fremont,
6 California.

7 10. Defendants Does 1-50, inclusive, are sued herein under fictitious names. Their
8 true names and capacities are unknown to Plaintiffs. When their true names and capacities are
9 ascertained, Plaintiffs will amend this complaint by inserting their true names and capacities
10 herein. Plaintiffs are informed and believe and thereon allege that each of the fictitiously-named
11 Defendants is responsible in some manner for the occurrences herein alleged, and that the
12 damages of Plaintiffs and the putative class members herein alleged were proximately caused by
13 such Defendants.

14 11. Plaintiffs are informed, believe, and thereon allege that each of the Defendants
15 herein was, at all times relevant to this action, an agent, employee, representing partner,
16 integrated enterprise with, and/or joint venturer of the remaining Defendants and was acting
17 within the course and scope of the relationship. Plaintiffs are further informed, believe, and
18 thereon allege that each of the Defendants herein gave consent to, ratified and authorized the acts
19 alleged herein to the remaining Defendants.

20 **JURISDICTION AND VENUE**

21 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 as this
22 case is being brought under the FLSA, 29 U.S.C. § 207 *et seq.* Each representative Plaintiff has
23 signed a consent form to join this lawsuit, which have previously been filed with the Court.

24 13. Venue is proper in the United States District Court, Northern District of California
25 pursuant to 28 U.S.C. § 1391, because Defendants operate or have operated facilities in San
26 Francisco, Redwood City, San Mateo, Palo Alto, Milpitas, Cupertino, Oakland, and Fremont,
27 California, and because a substantial part of the events giving rise to the claims occurred in this
28 district.

1 23. Plaintiffs consent in writing to be a part of this action, pursuant to 29 U.S.C. §
2 216(b). Plaintiffs' written consent forms have previously been filed with the Court.

3 24. At all relevant times, Defendants have been, and continue to be, "employers"
4 engaged in interstate commerce and/or in the production of goods for commerce, within the
5 meaning of the FLSA, 20 U.S.C. § 203. At all relevant times, Defendants have employed and
6 continue to employ employees including Plaintiffs. At all relevant times, upon information and
7 belief, each Defendant corporation has had gross operating revenues in excess of \$500,000.00.

8 25. The FLSA requires each covered employer such as Defendants to compensate all
9 non-exempt employees at a rate of not less than one and one-half times the regular rate of pay for
10 work performed in excess of forty hours per work week.

11 26. During their employment with Defendants, within the applicable statute of
12 limitations, Plaintiffs worked in excess of forty hours per workweek without overtime
13 compensation. Despite the hours worked by Plaintiffs, Defendants willfully, in bad faith, and in
14 knowing violation of the Federal Fair Labor Standards Act, failed and refused to pay them
15 overtime compensation.

16 27. By failing to accurately record, report, and/or preserve records of hours worked by
17 Plaintiffs, Defendants have failed to make, keep, and preserve records with respect to each of
18 their employees sufficient to determine their wages, hours, and other conditions and practice of
19 employment, in violation of the FLSA, 29 U.S.C. § 201, *et seq.*

20 28. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA,
21 within the meaning of 29 U.S.C. § 255(a).

22 29. Plaintiffs seek damages in the amount of their respective unpaid overtime
23 compensation, liquidated damages from three years immediately preceding the filing of this
24 action, plus interests and costs as allowed by law, pursuant to 29 U.S.C. §§ 216(b) and 255(a),
25 and such other legal and equitable relief as the Court deems just and proper.

26 30. Plaintiffs seek recovery of their attorneys' fees and costs to be paid by Defendants,
27 as provided by the FLSA, 29 U.S.C. § 216(b).

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PRAYER FOR RELIEF

31. WHEREFORE, Plaintiffs pray for relief as follows:

- A. Judgment that Defendants are found to have violated the overtime provisions of the FLSA as to Plaintiffs;
- B. That Defendants' violations as described above are found to be willful;
- C. Judgment against Defendants for an amount equal to Plaintiffs' unpaid back wages at the applicable overtime rate;
- D. An equal amount to the overtime damages as liquidated damages;
- E. An award of reasonable attorneys' fees and costs incurred prosecuting this claim, pursuant to 29 U.S.C. section 216;
- F. Pre-judgment and post-judgment interest, as provided by law;
- G. For such other relief as this Court may deem just and proper.

JURY DEMAND

32. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs, individually and on behalf of all others similarly situated, demand a trial by jury.

Dated: _____

NICHOLS KASTER, LLP

By, _____

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Attorneys for Plaintiffs