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County of Stanislaus
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS

MARIA LOPEZ, as an aggrieved employee
pursuant to the Private Attorneys General
Act ("PAGA"), on behalf of the State of
California and other aggrieved employees,

Plaintiff,

vs.

CALJAX, INC., a California corporation;
MARLU LC, INC., a California
corporation; SMART MANAGEMENT &
CO., INC., a California corporation; C
FOOD CONCEPTS, INC., a California
corporation; SECRET RIVER, INC., a
California corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: CV-20-001918

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

This case has been assigned to Judge Silveira, Marie Sovey
Department 21 for all purposes including Trial.

1 Plaintiff Maria Lopez, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on January 23, 2020, until judgment (“non-party Aggrieved
14 Employees”). Plaintiff’s share of civil penalties sought in this action does not exceed
15 \$75,000.

16 2. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, section 10. The statute under which this action is brought does not
18 specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over all Defendants because, on information and
20 belief, Defendants are either citizens of California, have sufficient minimum contacts in
21 California, or otherwise intentionally avail themselves of the California market so as to render
22 the exercise of jurisdiction over them by the California courts consistent with traditional
23 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
24 in this action given that the State of California, as the real party in interest in this action, is not
25 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
26 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
27 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
28

1 in this action, and that diversity jurisdiction cannot be established when Plaintiff's share of the
2 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

3 4. Venue is proper in this Court, because Defendants employ persons in this
4 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
5 and occurrences related to this action occurred in this county.

6 5. California Labor Code sections 2698, *et seq.*, the "Labor Code Private
7 Attorneys General Act of 2004" ("PAGA"), authorize aggrieved employees to sue as private
8 attorneys general their current or former employers for various civil penalties for violations of
9 various provisions in the California Labor Code.

10 THE PARTIES

11 6. Plaintiff Maria Lopez is a resident of Turlock, in Stanislaus County, California.
12 Defendants employed Plaintiff as an hourly paid, non-exempt Cashier and Cook from
13 approximately September 2010 to April 2019. Most recently, Plaintiff worked for Defendants
14 at one of three Turlock, California Jack in the Box restaurants located at 1951 Lander Road,
15 Turlock, California 95380 (store #3409). During her employment, Plaintiff typically worked
16 six (6) to eight (8) hours per day, four (4) to five (5) days per week, and 30 to 40 hours per
17 week, from 6:00 a.m. to 2:00 p.m. At the time Plaintiff's employment with Defendants ended,
18 she earned approximately \$12.00 per hour. Her job duties included, without limitation,
19 cooking and preparing food, operating the cash register, taking customer orders, and
20 processing payments.

21 7. CALJAX, INC. was and is, upon information and belief, a California
22 corporation, and at all times hereinafter mentioned, an employer whose employees are
23 engaged throughout this county, the State of California, or the various states of the United
24 States of America.

25 8. MARLU LC, INC. was and is, upon information and belief, a California
26 corporation, and at all times hereinafter mentioned, an employer whose employees are
27 engaged throughout this county, the State of California, or the various states of the United
28 States of America.

1 9. SMART MANAGEMENT & CO., INC. was and is, upon information and
2 belief, a California corporation, and at all times hereinafter mentioned, an employer whose
3 employees are engaged throughout this county, the State of California, or the various states of
4 the United States of America.

5 10. C FOOD CONCEPTS, INC. was and is, upon information and belief, a
6 California corporation, and at all times hereinafter mentioned, an employer whose employees
7 are engaged throughout this county, the State of California, or the various states of the United
8 States of America.

9 11. SECRET RIVER, INC. was and is, upon information and belief, a California
10 corporation, and at all times hereinafter mentioned, an employer whose employees are
11 engaged throughout this county, the State of California, or the various states of the United
12 States of America.

13 12. Plaintiff is unaware of the true names or capacities of the Defendants sued
14 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
15 amend the complaint and serve such fictitiously named Defendants once their names and
16 capacities become known.

17 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
18 were the partners, agents, owners, or managers of CALJAX, INC.; MARLU LC, INC.;
19 SMART MANAGEMENT & CO., INC.; C FOOD CONCEPTS, INC.; and SECRET RIVER,
20 INC., at all relevant times.

21 14. Plaintiff is informed and believes, and thereon alleges, that each and all of the
22 acts and omissions alleged herein was performed by, or is attributable to, CALJAX, INC.;
23 MARLU LC, INC.; SMART MANAGEMENT & CO., INC.; C FOOD CONCEPTS, INC.;
24 SECRET RIVER, INC.; and/or DOES 1 through 10 (collectively, “Defendants” or
25 “CALJAX”), each acting as the agent, employee, alter ego, and/or joint venturer of, or
26 working in concert with, each of the other co-Defendants and was acting within the course and
27 scope of such agency, employment, joint venture, or concerted activity with legal authority to
28 act on the others’ behalf. The acts of any and all Defendants were in accordance with, and

1 represent, the official policy of Defendants.

2 15. At all relevant times, Defendants, and each of them, ratified each and every act
3 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
4 and abetted the acts and omissions of each and all the other Defendants in proximately causing
5 the damages herein alleged.

6 16. Plaintiff is informed and believes, and thereon alleges, that each of said
7 Defendants are in some manner intentionally, negligently, or otherwise responsible for the
8 acts, omissions, occurrences, and transactions alleged herein.

9 17. Under California law, Defendants are jointly and severally liable as employers
10 for the violations alleged herein because they have each exercised sufficient control over the
11 wages, hours, working conditions, and employment status of Plaintiff and other non-party
12 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
13 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
14 of employment, determined their rate of pay, and maintained their employment records.
15 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
16 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
17 common-law employment relationship. As joint employers of Plaintiff and other non-party
18 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
19 available to Plaintiff and other non-party Aggrieved Employees under the law.

20 18. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
21 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
22 non-party Aggrieved Employees because Defendants have:

- 23 (a) jointly exercised meaningful control over the work performed by
24 Plaintiff and other non-party Aggrieved Employees;
25 (b) jointly exercised meaningful control over Plaintiff’s and other non-party
26 Aggrieved Employees’ wages, hours, and working conditions, including
27 the quantity, quality standards, speed, scheduling, and operative details
28 of the tasks performed by Plaintiff and other non-party Aggrieved

Employees;

- (c) jointly required that Plaintiff and other non-party Aggrieved Employees perform work which is an integral part of Defendants' businesses; and
- (d) jointly exercised control over Plaintiff and other non-party Aggrieved Employees as a matter of economic reality in that Plaintiff and other non-party Aggrieved Employees were dependent on Defendants, who shared the power to set the wages of Plaintiff and other non-party Aggrieved Employees and determined their working conditions, and who jointly reaped the benefits from the underpayment of their wages and noncompliance with other statutory provisions governing their employment.

19. Plaintiff is informed and believes, and thereon alleges, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

20. CALJAX, INC.; MARLU LC, INC.; SMART MANAGEMENT & CO., INC.; C FOOD CONCEPTS, INC.; SECRET RIVER, INC.; and DOES 1 through 10 are therefore alter egos of each other.

21. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by them under the name CALJAX.

22. Plaintiff further alleges, upon information and belief, that Defendants CALJAX, INC.; MARLU LC, INC.; SMART MANAGEMENT & CO., INC.; C FOOD CONCEPTS, INC.; and SECRET RIVER, INC. are alter egos of each other for the following reasons:

- (a) On the California Secretary of State's website (<https://businesssearch.sos.ca.gov/>), CALJAX, INC.; MARLU LC, INC.; SMART MANAGEMENT & CO., INC.; C FOOD CONCEPTS, INC.; and SECRET RIVER, INC. have the same entity address and/or

mailing address, which is “2368 Maritime Dr., Suite 100, Elk Grove, CA 95758”;

(b) CALJAX, INC.; MARLU LC, INC.; SMART MANAGEMENT & CO., INC.; C FOOD CONCEPTS, INC.; and SECRET RIVER, INC. share the same agent for service of process, CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC; and

(c) On information and belief, CALJAX, INC.; MARLU LC, INC.; SMART MANAGEMENT & CO., INC.; C FOOD CONCEPTS, INC.; and SECRET RIVER, INC. utilize the same standardized employment forms and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

23. Defendants own and operate approximately 15 Jack in the Box fast-food restaurant locations in California. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their corporate headquarters in Elk Grove, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

24. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee’s time of hire.

25. Upon information and belief, Defendants maintain a centralized Payroll department at their corporate headquarters in Elk Grove, California, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations

1 and jobsites in California, including Plaintiff and other non-party Aggrieved Employees.
2 Based upon information and belief, Defendants issue the same formatted wage statements to
3 all non-exempt, hourly paid employees in California, irrespective of their work locations.
4 Upon information and belief, Defendants process payroll for departing employees in the same
5 manner throughout the State of California, regardless of the manner in which each employee's
6 employment ends.

7 26. Defendants continue to employ non-exempt or hourly paid employees in
8 California.

9 27. Plaintiff is informed and believes, and thereon alleges, that at all times herein
10 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
11 and advisors knowledgeable about California labor and wage law, employment and personnel
12 practices, and about the requirements of California law.

13 28. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
14 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
15 were not recorded.

16 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
18 receive certain wages for overtime compensation and that they were not receiving certain
19 wages for overtime compensation.

20 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
22 receive at least minimum wages for compensation and that they were not receiving at least
23 minimum wages for work that was required to be done off-the-clock. In violation of the
24 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
25 least minimum wages for work done off-the-clock.

26 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that other non-party Aggrieved Employees were entitled to meal periods
28 in accordance with the Labor Code or payment of one (1) additional hour of pay at their

1 regular rates of pay when they were not provided with timely, uninterrupted, thirty (30)
2 minute meal periods and that other non-party Aggrieved Employees were not provided with
3 all meal periods or payment of one (1) additional hour of pay at their regular rates of pay
4 when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

5 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
7 rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment
8 of one (1) additional hour of pay at their regular rates of pay when they were not authorized
9 and permitted to take a compliant rest period. In violation of the California Labor Code,
10 Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to take
11 compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved
12 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
13 they were not authorized and permitted to take a compliant rest period.

14 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 receive complete and accurate wage statements in accordance with California law. In
17 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
18 were not provided complete and accurate wage statements.

19 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that they had a duty to maintain accurate and complete payroll records in
21 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
22 and intentionally failed to do so.

23 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
25 timely payment of all wages earned upon termination of employment. In violation of the
26 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
27 payment of all wages due, including, but not limited to, overtime wages, minimum wages, and
28 meal and rest period premiums, within permissible time periods.

1 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
3 timely payment of wages during their employment. In violation of the California Labor Code,
4 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
5 including, but not limited to, overtime wages, minimum wages, and meal and rest period
6 premiums, within permissible time periods.

7 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that they were prohibited from issuing instruments for the payment of
9 wages that were not payable in cash on demand, without discount and with authorization, but
10 did so, in violation of the California Labor Code.

11 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
13 the portion of wages previously paid and subsequently unlawfully deducted by Defendants.

14 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 payment of wages as designated by statute. In violation of the California Labor Code,
17 Defendants secretly paid Plaintiff and other non-party Aggrieved Employees lower wages that
18 required by statute while purporting to pay them proper wages.

19 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that they were required to pay Plaintiff and other non-party Aggrieved
21 Employees the statutorily designated wage scale but did not do so.

22 41. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
24 receive reimbursement for all business-related expenses and costs they incurred during the
25 course and scope of their employment and that they did not receive reimbursement of
26 applicable business-related expenses and costs incurred.

27 42. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants knew or should have known that Defendants had a duty to provide

1 other non-party Aggrieved Employees with written notice of the material terms of their
2 employment with Defendants as required by the California Wage Theft Prevention Act, but
3 willfully, knowingly, and intentionally failed to do so.

4 43. Plaintiff is informed and believes, and thereon alleges, that at all times herein
5 mentioned, Defendants knew or should have known that they had a duty to compensate
6 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
7 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
8 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
9 that they were properly denied wages, all in order to increase Defendants' profits.

10 44. At all times herein set forth, PAGA provides that any provision of law under
11 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
12 assessed and collected by the LWDA for violations of the California Labor Code and
13 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
14 civil action brought on behalf of themselves and other current or former employees pursuant
15 to procedures outlined in California Labor Code section 2699.3.

16 45. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
17 person who was employed by the alleged violator and against whom one or more of the
18 alleged violations was committed."

19 46. Plaintiff and other current and former employees of Defendants are "aggrieved
20 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
21 or former employees and one or more of the alleged violations were committed against them.

22 47. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
23 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
24 following requirements have been met:

- 25 (a) The aggrieved employee shall give written notice by online filing
26 (hereinafter "Employee's Notice") to the LWDA and by certified mail
27 to the employer of the specific provisions of the California Labor Code
28 alleged to have been violated, including the facts and theories to support

1 the alleged violations.

2 (b) An aggrieved employee's notice filed with the LWDA pursuant to
3 2699.3(a) and any employer response to that notice shall be
4 accompanied by a filing fee of seventy-five dollars (\$75).

5 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
6 employer and the aggrieved employee by certified mail that it does not
7 intend to investigate the alleged violation within sixty (60) calendar
8 days of the postmark date of the Employee's Notice. Upon receipt of
9 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
10 five (65) calendar days of the postmark date of the Employee's Notice,
11 the aggrieved employee may commence a civil action pursuant to
12 California Labor Code section 2699 to recover civil penalties in addition
13 to any other penalties to which the employee may be entitled.

14 48. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
15 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
16 provision other than those listed in Section 2699.5 after the following requirements have been
17 met:

18 (a) The aggrieved employee or representative shall give written notice by
19 online filing to the LWDA and by certified mail to the employer of the
20 specific provisions of the California Labor Code alleged to have been
21 violated (other than those listed in Section 2699.5), including the facts
22 and theories to support the alleged violation.

23 (b) An aggrieved employee's notice filed with the LWDA pursuant to
24 2699.3(c) and any employer response to that notice shall be
25 accompanied by a filing fee of seventy-five dollars (\$75).

26 (c) The employer may cure the alleged violation within thirty-three (33)
27 calendar days of the postmark date of the notice. The employer shall
28 give written notice by certified mail within that period of time to the

1 aggrieved employee or representative and the agency if the alleged
2 violation is cured, including a description of actions taken, and no civil
3 action pursuant to Section 2699 may commence. If the alleged violation
4 is not cured within the 33-day period, the employee may commence a
5 civil action pursuant to Section 2699.

6 49. On January 23, 2020, Plaintiff provided written notice by online filing to the
7 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
8 Code alleged to have been violated, including facts and theories to support the alleged
9 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
10 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
11 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
12 Plaintiff PAGA Case Number LWDA-CM-768500-20. A true and correct copy of Plaintiff's
13 written notice to the LWDA and Defendants dated January 23, 2020, is attached hereto as
14 "Exhibit 1."

15 50. As of the filing date of this complaint, over 65 days have passed since Plaintiff
16 sent the initial LWDA Notice described above, and the LWDA has not responded that it
17 intends to investigate Plaintiff's claims, and Defendants have not cured the violations.

18 51. Thus, Plaintiff has satisfied the administrative prerequisites under California
19 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
20 violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 223, 224,
21 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

22 52. Labor Code section 558(a) provides "[a]ny employer or other person acting on
23 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
24 provision regulating hours and days of work in any order of the Industrial Welfare
25 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
26 dollars (\$50) for each underpaid employee for each pay period for which the employee was
27 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
28 underpaid employee for each pay period for which the employee was underpaid" Labor

Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties under Labor Code section 558 for herself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC wage order. Plaintiff, acting in the public interest as private attorney general, does not seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC wage order.

53. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved Employees’ rights by violating various sections of the California Labor Code as set forth above.

54. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

55. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

FIRST CAUSE OF ACTION

For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.*

(Against all Defendants)

56. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

57. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover

1 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
2 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 212, 213,
3 221, 223, 224, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code
4 section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties
5 for violations of those Labor Code sections not found in section 2699.5, including sections
6 516, 1182.12, and 2810.5.

7 58. Defendants' conduct, as alleged herein, violates numerous sections of the
8 California Labor Code, including, but not limited to, the following:

- 9 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
10 wage order for Defendants' failure to compensate Plaintiff and other non-
11 party Aggrieved Employees with all required overtime pay, as set forth
12 below;
- 13 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the
14 applicable IWC wage order for Defendants' failure to compensate
15 Plaintiff and other non-party Aggrieved Employees with at least
16 minimum wages for all hours worked as set forth below;
- 17 (c) Violation of Labor Code sections 226.7, 512, 516, 1198, and the
18 applicable IWC wage order for Defendants' failure to provide Plaintiff
19 and other non-party Aggrieved Employees with meal periods, as set forth
20 below;
- 21 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
22 IWC wage order for Defendants' failure to authorize and permit Plaintiff
23 and other non-party Aggrieved Employees to take rest periods, as set
24 forth below;
- 25 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
26 wage order for failure to provide accurate and complete wage statements
27 to Plaintiff and other non-party Aggrieved Employees, as set forth below;
- 28 (f) Violation of Labor Code sections 1174(d), 1198, and the applicable IWC

- 1 wage order for failure to maintain payroll records as set forth below;
- 2 (g) Violation of Labor Code section 204 for failure to pay all earned wages
- 3 during employment as set forth below;
- 4 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
- 5 earned wages upon termination as set forth below;
- 6 (i) Violation of Labor Code sections 212 and 213 for issuing instruments
- 7 for the payment of wages that were not payable in cash on demand,
- 8 without discount, and with prior authorization as set forth below;
- 9 (j) Violation of Labor Code sections 221 and 224 for unlawfully deducting
- 10 a portion of wages previously paid to Plaintiff and other non-party
- 11 Aggrieved Employees, as set forth below;
- 12 (k) Violation of Labor Code section 223 for secretly paying Plaintiff and
- 13 other non-party Aggrieved Employees lower wages than required by
- 14 statute, while purporting to pay the proper wages, as set forth below;
- 15 (l) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
- 16 and other non-party Aggrieved Employees for all business expenses
- 17 necessarily incurred, as set forth below, as set forth below; and
- 18 (m) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
- 19 provide written notice of information material to other non-party
- 20 Aggrieved Employees' employment with Defendants, as set forth below.

21 **FAILURE TO PAY OVERTIME**

22 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

23 59. Labor Code section 1198 makes it illegal to employ an employee under

24 conditions of labor that are prohibited by the applicable wage order. California Labor Code

25 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall

26 be the . . . standard conditions of labor for employees. The employment of any employee . . .

27 under conditions of labor prohibited by the order is unlawful.”

28 60. California Labor Code section 1198 and the applicable IWC Wage Order

1 provide that it is unlawful to employ persons without compensating them at a rate of pay
2 either time-and-one-half or two-times that person's regular rate of pay, depending on the
3 number of hours worked by the person on a daily or weekly basis.

4 61. Specifically, the applicable IWC Wage Order provides that Defendants are and
5 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
6 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
7 one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
8 hours in a workweek.

9 62. The applicable IWC Wage Order further provides that Defendants are and were
10 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
11 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
12 An employee's regular rate of pay includes all remuneration for employment paid to, or on
13 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

14 63. California Labor Code section 510 codifies the right to overtime compensation
15 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
16 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
17 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
18 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
19 in a day on the seventh (7th) day of work.

20 64. During the relevant time period, Defendants willfully failed to pay all overtime
21 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
22 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
23 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
24 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
25 not recorded.

26 65. First, during the relevant period, on information and belief, Defendants had,
27 and continue to have, a company-wide policy and/or practice of strictly staffing their
28 restaurant locations based on the labor hours allocated by each restaurant's labor or payroll

1 budget, which has resulted in and continues to result in chronic understaffing and a lack of
2 adequate meal period coverage, because there were too few employees on duty to handle the
3 workload and attend to customers. As a result of this inadequate meal period coverage,
4 Plaintiff and other non-party Aggrieved Employees missed and/or had their meal periods
5 interrupted by work to meet the demands of their workload. For example, Plaintiff's unpaid
6 meal periods were interrupted or cut short by 15-20 minutes approximately twice a week, due
7 to Defendants' management or other employees asking work-related questions regarding
8 restaurant operations.

9 66. Second, Defendants' company-wide timekeeping system locked out Plaintiff
10 and other non-party Aggrieved Employees once they clocked out for a meal period and would
11 not permit them to clock back in from a meal before 30 minutes had elapsed. Thus,
12 Defendants' timekeeping system prevented Plaintiff and other non-party Aggrieved
13 Employees from recording all hours worked when their meal periods were shortened or
14 interrupted. Alternatively, on information and belief, Defendants implemented a company-
15 wide policy and practice of automatically deducting meal periods from Plaintiff's and/or other
16 non-party Aggrieved Employees' time records. As a result of this policy, Defendants
17 deducted 30-minute meal periods from Plaintiff's and/or other non-party Aggrieved
18 Employees' time records even when meal periods were missed, short, and/or interrupted.
19 Further, on information and belief, because Defendants frowned upon employees accruing
20 meal period penalties, Defendants pressured Plaintiff and/or other non-party Aggrieved
21 Employees to clock out for meal periods and/or adjusted employee time records to reflect
22 compliant meal periods, regardless of whether they had received a compliant meal period or
23 not, in order to strictly limit meal penalties that Defendants would otherwise owe.
24 Consequently, Plaintiff and/or other non-party Aggrieved Employees performed work during
25 meal periods for which they were not paid.

26 67. Third, Defendants had, and continue to have, a company-wide policy and/or
27 practice of requiring Plaintiff and other non-party Aggrieved Employees to communicate with
28 Defendants' management while off-the-clock, using their personal cellular phones, and had

1 the expectation that Plaintiff and other non-party Aggrieved Employees promptly respond to
2 these messages. As a result, Plaintiff and other non-party Aggrieved Employees spent time
3 responding to Defendants' communications to them regarding work-related matters, such as
4 obtaining restaurant supplies and inventory. For example, Plaintiff spent 30-45 minutes each
5 week reviewing and responding to text messages and calls from Defendants' supervisors,
6 while off-the-clock.

7 68. Fourth, Defendants had, and continue to have, a company-wide policy and/or
8 practice requiring Plaintiff and other non-party Aggrieved Employees to perform tasks off-
9 the-clock, such as picking up restaurant ingredients and supplies from other Defendants'
10 restaurant locations or grocery stores. For example, Defendants' supervisors would ask
11 Plaintiff to drive and pick up ingredients from Defendants' two other Turlock restaurant
12 locations or purchase supplies like Ziploc bags from a grocery store on her way to work, while
13 off-the-clock, which could take 20-30 minutes each time, work for which she was not always
14 paid. Additionally, as mentioned above, Defendants' policy and/or practice of understaffing
15 while assigning heavy workloads also led to Plaintiff and other non-party Aggrieved
16 Employees performing work off-the-clock after their shifts in order to complete their assigned
17 tasks. For example, Plaintiff would regularly clock out and continue working a few times per
18 week, for 30 minutes or more, and to assist the following shift with their workload and serve
19 food to customers.

20 69. Defendants knew or should have known that as a result of these company-wide
21 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were working
22 before and after their shifts and/or during their meal periods, and were suffered or permitted to
23 perform work for which they were not paid. Because Plaintiff and other non-party Aggrieved
24 Employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more,
25 some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and
26 other non-party Aggrieved Employees were not paid overtime wages for all of the overtime
27 hours they actually worked.

28 70. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees

1 the balance of overtime compensation as required by California law, violates the provisions of
2 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
3 Employees are entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
4 2699(a), (f), and (g).

5 **FAILURE TO PAY MINIMUM WAGES**

6 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

7 71. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
8 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
9 to be paid to employees, and the payment of a wage less than the minimum so fixed is
10 unlawful. Compensable work time is defined by the applicable wage order as “the time
11 during which an employee is subject to the control of an employer, and includes all the time
12 the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code.
13 Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

14 72. As set forth above, due to Defendants’ uniform practice of utilizing labor
15 budgets, resultant understaffing, and a lack of meal period coverage, Plaintiff and other non-
16 party Aggrieved Employees were impeded from taking all uninterrupted meal periods to
17 which they were entitled and were required to work off-the-clock. And, as described above,
18 Defendants’ timekeeping system did not permit Plaintiff and other non-party Aggrieved
19 Employees to clock back in early when their meal periods were interrupted or cut short.
20 Alternatively, as stated, Defendants had a company-wide practice and/or policy of
21 automatically deducting meal periods from Plaintiff’s and/or other non-party Aggrieved
22 Employees’ time records, even when meal periods were missed, short, and/or interrupted.
23 Furthermore, in order to limit meal penalties that Defendants would otherwise owe,
24 Defendants pressured Plaintiff and/or other non-party Aggrieved Employees to clock out for
25 meal periods and/or adjusted employee time records to reflect compliant meal periods. In
26 addition, Plaintiff and other non-party Aggrieved Employees were required to perform work
27 off-the-clock before or after their shifts by responding to work-related calls and text messages
28 from Defendants’ management; by running errands, such as picking up restaurant ingredients

1 and supplies from Defendants' other restaurant locations or a grocery store; or by assisting the
2 following shift with their workload after clocking out.

3 73. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
4 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
5 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
6 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
7 1194, 1197, and 1198.

8 74. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
9 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
10 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
11 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

12 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
13 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

14 75. At all relevant times herein set forth, the applicable IWC Wage Order(s) and
15 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
16 non-party Aggrieved Employees' employment by Defendants.

17 76. At all relevant times herein set forth, California Labor Code section 512(a)
18 provides that an employer may not require, cause, or permit an employee to work for a period
19 of more than five (5) hours per day without providing the employee with a meal period of not
20 less than thirty (30) minutes, except that if the total work period per day of the employee is
21 not more than six (6) hours, the meal period may be waived by mutual consent of both the
22 employer and the employee. Under California law, first meal periods must start after no more
23 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
24 2012).

25 77. At all relevant times herein set forth, California Labor Code sections 226.7,
26 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
27 meal period mandated by an applicable order of the IWC.

28 78. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,

1 and the applicable IWC Wage Order also require employers to provide a second meal period
2 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay
3 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
4 total hours worked is no more than twelve (12) hours, the second meal period may be waived
5 by mutual consent of the employer and the employee only if the first meal period was not
6 waived.

7 79. As set forth above, during the relevant time period, Defendants had, and
8 continue to have, a company-wide policy and/or practice of labor budgeting, understaffing,
9 and failure to provide adequate meal period coverage, which prevented Plaintiff and other
10 non-party Aggrieved Employees from taking compliant meal periods and caused Plaintiff and
11 other non-party Aggrieved Employees to work off-the-clock without that time being recorded.
12 Additionally, Defendants did not schedule meal periods or failed to adhere to a schedule of
13 meal periods, resulting in Plaintiff and other non-party Aggrieved Employees waiting
14 extended periods of time before taking meal periods due to the heavy workload.

15 80. Furthermore, as described above, Defendants implemented an electronic
16 timekeeping system that locked Plaintiff and other non-party Aggrieved Employees out and
17 prevented them from clocking in early before the end of their 30-minute meal period. As a
18 result of Defendants' timekeeping system, Plaintiff and other non-party Aggrieved Employees
19 were prevented from accurately recording when they had to return early from a meal period so
20 that they could be compensated for that time. Alternatively, as described above, Defendants
21 implemented a company-wide policy and practice of automatically deducting meal periods
22 from Plaintiff's and/or other non-party Aggrieved Employees' time records, even when meal
23 periods were missed short, and/or interrupted. Thus, Defendants systematically failed to
24 correctly record meal periods. Furthermore, because Defendants frowned upon employees
25 accruing meal period penalties, Defendants' management would adjust Plaintiff's and/or other
26 non-party Aggrieved Employees' time records and/or pressured employees to clock out for
27 meal periods to reflect compliant meal periods, regardless of whether they had received a
28 compliant meal period or not, in order to strictly limit meal penalties that would need to be

1 paid by Defendants. Consequently, Plaintiff and/or other non-party Aggrieved Employees
2 performed work during meal periods for which they were not paid.

3 81. As a result, Plaintiff and other non-party Aggrieved Employees had to work
4 through part or all of their meal periods, had their meal periods interrupted, and/or had to wait
5 extended periods of time before taking meal periods. For example, during her employment,
6 Plaintiff's meal periods were cut short or interrupted several times per week, due to a lack of
7 coverage resulting from having too few employees on duty to handle the workload.

8 82. In addition, during the relevant time period, other non-party Aggrieved
9 Employees worked shifts in excess of ten (10) hours without receiving an uninterrupted
10 second 30-minute meal period. Plaintiff and other non-party Aggrieved Employees did not
11 sign valid meal period waivers on days that they were entitled to meal periods and were not
12 relieved of all duties.

13 83. Defendants knew or should have known that as a result of its non-compliant
14 policies and practice of understaffing locations due to labor budgeting and avoiding meal
15 period penalties, that Plaintiff and other non-party Aggrieved Employees were not actually
16 relieved of all duties to take timely, uninterrupted meal periods. Defendants further knew or
17 should have known that it did not pay Plaintiff and other non-party Aggrieved Employees
18 meal period premium wages when meal periods were missed, late, short, and/or interrupted.

19 84. Defendants also have engaged in a company-wide practice and/or policy of not
20 paying meal period premiums owed when compliant meal periods are not provided. Because
21 of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not
22 received premium pay for missed meal periods.

23 85. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
24 Employees compliant meal periods and failed to pay the full meal period premiums due.
25 Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
26 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are
27 entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and
28 (g).

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS
VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198

86. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other non-party Aggrieved Employees' employment by Defendants.

87. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

88. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

89. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and other non-party Aggrieved Employees are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

90. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants' company-wide practices, including utilizing labor budgets and resultant understaffing while assigning heavy workloads, resulted in a lack of rest period coverage and

1 prevented Plaintiff and other non-party Aggrieved Employees from being relieved of all duty
2 in order to take compliant rest periods. Defendants also failed to schedule rest periods or
3 adhere to a schedule of rest periods, which, coupled with Defendants' failure to provide
4 adequate rest period coverage, further led to Plaintiff and other non-party Aggrieved
5 Employees not being authorized and permitted to take rest periods.

6 91. Furthermore, upon information and belief, Defendants maintained and
7 implemented, on a company-wide basis, an on-premises rest period policy, which mandated
8 that Plaintiff and other non-party Aggrieved Employees remain on Defendants' premises
9 during their rest periods. As a result, upon information and belief, Defendants did not
10 relinquish control over Plaintiff and other non-party Aggrieved Employees, and Plaintiff and
11 other non-party Aggrieved Employees were prevented from being relieved of their duties to
12 take rest periods.

13 92. As a result of Defendants' practices and policies, Plaintiff and other non-party
14 Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
15 excess of 10 hours without receiving all ten (10) minute rest periods to which they were
16 entitled. For example, Plaintiff frequently worked through her shifts without taking her 10-
17 minute rest periods.

18 93. Defendants also have engaged in a company-wide practice and/or policy of not
19 paying all rest period premiums owed when compliant rest periods are not authorized or
20 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
21 Employees have not received premium pay for all missed rest periods.

22 94. Defendants' conduct violates the applicable IWC Wage Order and California
23 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved Employees
24 are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
25 2699(a), (f), and (g).

26 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**

27 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

28 95. At all relevant times herein, California Labor Code section 226(a) provides that

every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

96. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

97. Because Defendants did not record the time Plaintiff and other non-party Aggrieved Employees spent working off-the-clock and deducted time from Plaintiff's and/or other non-party Aggrieved Employees' records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and other non-party Aggrieved Employees in compliance with section 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and other non-party Aggrieved Employees in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and corresponding accurate number of work hours worked at each hourly rate in violation of section 226(a)(9).

98. The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved

1 employees were paid; and/or failing to state all hours worked as a result of not recording or
2 stating hours worked off-the-clock.

3 99. California Labor Code section 1198 provides that the maximum hours of work
4 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
5 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
6 employment of any employees for longer hours than those fixed by the order or under
7 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
8 Wage Order, employers are required to keep accurate time records showing when the
9 employee begins and ends each work period and meal period. During the relevant time
10 period, Defendants failed, on a company-wide basis, to keep accurate records of work period
11 and meal start and stop times for Plaintiff and other non-party Aggrieved Employees, in
12 violation of section 1198. As stated, Defendants engaged in a company-wide practice and/or
13 policy of falsifying Plaintiff’s and/or other non-party Aggrieved Employees’ time records by
14 automatically deducting meal periods or recording that compliant meal periods were taken
15 regardless of if or when meal periods were actually taken, and thereby failed to keep accurate
16 records of meal start and end times for Plaintiff and other non-party Aggrieved Employees.
17 Furthermore, in light of Defendants’ failure to provide other non-party Aggrieved Employees
18 with second 30-minute meal periods to which they were entitled, Defendants kept no records
19 of meal start and end times for second meal periods.

20 100. California Labor Code section 1174(d) provides that “[e]very person employing
21 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
22 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
23 plants or establishments at which employees are employed, payroll records showing the hours
24 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
25 applicable piece rate paid to, employees employed at the respective plants or
26 establishments...” At all relevant times, and in violation of Labor Code section 1174(d),
27 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-
28 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto

1 as a result of failing to record the off-the-clock hours that they worked.

2 101. Because Defendants' violations of 226(a) and 1174(d) were committed against
3 Plaintiff and other non-party Aggrieved Employees, Plaintiff and other non-party Aggrieved
4 Employees are entitled to recover civil penalties pursuant to Labor Code sections 226.3, 1174.5,
5 and/or 2699(a), (f), and (g).

6 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

7 **VIOLATION OF LABOR CODE SECTION 204**

8 102. At all relevant times herein set forth, California Labor Code section 204
9 requires that all wages earned by any person in any employment between the 1st and the 15th
10 days, inclusive, of any calendar month, other than those wages due upon termination of an
11 employee, are due and payable between the 16th and the 26th day of the month during which
12 the labor was performed. Labor Code section 204 further provides that all wages earned by
13 any person in any employment between the 16th and the last day, inclusive, of any calendar
14 month, other than those wages due upon termination of an employee, are due and payable
15 between the 1st and the 10th day of the following month.

16 103. At all relevant times herein, California Labor Code section 204 also requires
17 that all wages earned for labor in excess of the normal work period shall be paid no later than
18 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
19 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
20 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
21 more than seven (7) calendar days following the close of the payroll period.

22 104. During the relevant time period, Defendants willfully failed to pay Plaintiff and
23 other non-party Aggrieved Employees all wages due to them within any time period specified
24 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
25 wages, and/or meal and rest period premium wages.

26 105. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
27 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

28 ///

1 **FAILURE TO PAY WAGES UPON TERMINATION**

2 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

3 106. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
4 that if an employer discharges an employee, the wages earned and unpaid at the time of
5 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
6 her employment, his or her wages shall become due and payable not later than seventy-two
7 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
8 his or her intention to quit, in which case the employee is entitled to his or her wages at the
9 time of quitting.

10 107. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
11 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
12 above, including but not limited to, overtime wages, minimum wages, and/or meal and rest
13 period premium wages, either at the time of discharge, or within seventy-two (72) hours of
14 their leaving Defendants' employ.

15 108. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
16 who are no longer employed by Defendants their wages earned and unpaid at the time of
17 discharge, or within seventy-two (72) hours of their leaving Defendant's employ, violates Labor
18 Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore
19 entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and
20 (g).

21 **UNLAWFUL DISCOUNT OF WAGES**

22 **VIOLATION OF LABOR CODE SECTIONS 212 AND 213**

23 109. California Labor Code section 212 prohibits employers from issuing any
24 instruments for the payment of wages unless such instruments are negotiable and payable in
25 cash on demand and without discount, at some established place of business in the state, the
26 name and address of which must appear on the instrument. California Labor Code section 212
27 further prohibits employers from issuing payment of wages due in the form of any scrip,
28 coupon, cards, or other thing redeemable, in merchandise or purporting to be payable or

1 redeemable otherwise than in money.

2 110. California Labor Code section 213 permits employers to pay employees via
3 direct deposit so long as the employee authorizes payment via direct deposit.

4 111. Under California law, employers are permitted to fulfill their wage payment
5 obligations to employees by using payroll debit cards, but only so long as the employee is
6 given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson*
7 *v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL
8 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor
9 Standards Enforcement (“DLSE”) decision deeming payroll debit card program permissible
10 relied heavily on:

11 . . . [T]he fact that the pay programs were optional, thereby
12 allowing an employee to either participate in the program or
13 receive his or her pay in some other way, such as direct deposit.
14 Specifically, the DLSE opined that “[t]he success of the
15 described procedure, in practice, will of course require that . . .
16 it is presented as an *alternative* method for wage payment for
17 which [the employees’] participation is optional.” The DLSE
also stated, “[i]t is significant that the program does not
mandate employee participation in the Money Network Service
and that it is designed to provide an alternative for employees
receiving their wage payment. Employees are also given the
option of having their pay direct deposited into an account of
their choosing . . .” (internal citations omitted).

18 112. In addition, California law only permits employers to utilize payroll debit card
19 programs if they provide employees with effective access to their wages without discount.
20 The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of
21 payroll debit cards where the following requirements are satisfied:

22 . . . (1) [T]he “wages [are] payable at some established place of
23 business in the state and there be at least 30 days of sufficient
24 funds for payment,”; (2) the employees are “fully informed of
25 the service and procedures and that it is represented as an
26 alternative method for wage payment for which their
participation is optional,”; (3) the employees receive “an
itemized wage statement,”; and (4) “at least one transaction per
pay period [is] without fee.”

27 *Ortiz v. Randstad North America, L.P.*, No. C-13-5050 MMC, 2015 WL 6202298 at 3.

28 113. Further, the DLSE notes that the Labor Code manifests:

1 . . . [A] strong public policy that prohibits an employer (or its
2 agent) from imposing conditions or obstacles which interfere
3 with or prevent an employee's (*sic*) from promptly receiving
4 their due wages *in full*. The imposition of a fee in order to
5 readily *access* one's earned and paid wage under a payroll card
6 program which is designed to discharge the employer's wage
7 payment obligations could impermissibly interfere with an
8 employee's receipt of *page* wages by creating a financial
9 condition which would have the *effect* of reducing or discounting
10 wages because such fee would be charged against the same
11 account in which wages are deposited." (Emphases in original)

12 *DLSE opinion letter 2008.07.07*. The DLSE has also acknowledged that payroll service
13 providers "effectively act as *agents* of the client employers in discharging the employer's wage
14 payment obligations." *Id.* In a second opinion letter, the DLSE stated that "[w]hile the Labor
15 Code does not purport to regulate the specific arrangements between employers and payroll
16 service providers, both an employer and, under the express language in Labor Code § 212- their
17 *agent*, must comply with its requirements." *DLSE opinion letter 2008.07.07.2*.

18 114. During the relevant time period, Defendants had an agreement with a payroll
19 service provider for the issuance of payroll cards to employees, including Plaintiff and other
20 non-party Aggrieved Employees, to discharge their wage payment obligations to their
21 employees. Defendants' payroll debit card program was not voluntary or optional to
22 employees. Defendants had a practice and/or policy of automatically issuing payroll debit
23 cards to employees without giving them the option to elect their form of payment for their
24 wages. For example, Plaintiff received her wages on a payroll debit card without a choice of
25 an alternative method, including a written check. Instead, Defendants automatically enrolled
26 Plaintiff in their payroll debit card payment for the purpose of issuing her wages to her.

27 115. Moreover, under Defendants' payroll debit program, on information and belief,
28 Defendants did not permit Plaintiff and other non-party Aggrieved Employees to withdraw
their entire wages in at least one transaction without incurring a fee. For example, Plaintiff
utilized ATMs to try to withdraw her wages but could not obtain the entire amount because
ATMs only disburse cash in limited denominations. Additionally, Plaintiff also encountered
approximately \$3.00 in ATM fees each time she utilized an ATM to withdraw funds from her
payroll debit card, which resulted in a discount in her pay.

116. California courts recognize a policy favoring the full and prompt payment of

1 wages to employees. Defendants' payroll card program is inconsistent with this policy and for
2 the reasons alleged herein violates California Labor Code sections 212 and 213. Plaintiff and
3 other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant
4 to Labor Code sections 225.5 and/or 2699(a), (f), and (g).

5 **COLLECTING OR RECEIVING WAGES ALREADY PAID**
6 **VIOLATION OF LABOR CODE SECTION 221 AND 224**

7 117. At all times relevant herein, California Labor Code section 221 provides that it
8 shall be unlawful for any employer to collect or receive from an employee any part of wages
9 theretofore paid by said employer to said employee. California Labor Code section 224 also
10 provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a
11 deduction is expressly authorized in writing by the employee."

12 118. Defendants systematically, and on a company-wide basis, provided Plaintiff
13 and other non-party Aggrieved Employees with payroll debit cards as payment of their wages.
14 Under Defendants' payroll debit card program, Plaintiff and other non-party Aggrieved
15 Employees were assessed various fees in connection with their use of the payroll debit cards.
16 Plaintiff and other non-party Aggrieved Employees were required to pay per-transaction fees,
17 ATM fees, in-person teller fees, and/or other fees to obtain and/or spend their earned and due
18 wages. The fees charged to Plaintiff and other non-party Aggrieved Employees resulted in a
19 discount of their wages.

20 119. Defendants' payroll debit card program, which resulted in a discount of wages
21 to employees, is tantamount to taking deductions from Plaintiff's and other non-party
22 Aggrieved Employees' paychecks without their written authorization and therefore constitutes
23 an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Plaintiff
24 and other non-party Aggrieved Employees are therefore entitled to recover civil penalties
25 pursuant to Labor Code sections 225.5 and/or 2699(a), (f), and (g).

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1 **SECRET PAYMENT OF A LOWER WAGE**

2 **VIOLATION OF LABOR CODE SECTION 223**

3 120. At all times, California Labor Code section 223 makes it unlawful for an
4 employer to secretly pay wages lower than required by statute while purporting to pay legal
5 wages.

6 121. During the relevant time period, Defendants willfully and systematically issued
7 payroll debit cards to Plaintiff and other non-party Aggrieved Employees. The payroll debit
8 cards discounted the wages of Plaintiff and other non-party Aggrieved Employees by charging
9 various fees in connection with the use of the payroll debit cards. Defendants' payroll debit
10 card program resulted in the payment of less than statutorily-required wages to Plaintiff and
11 other non-party Aggrieved Employees. In doing so, Defendants acted with the intent to deprive
12 Plaintiff and other non-party Aggrieved Employees of statutory wages, including, but not
13 limited to, overtime wages and minimum wages to which they were entitled to under California
14 law. Thus, Defendants paid Plaintiff and other non-party Aggrieved Employees lower wages
15 than those they were entitled to while purporting that Plaintiff and other non-party Aggrieved
16 Employees were properly paid.

17 122. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
18 the correct designated wage, while purporting to pay legal wages, is a violation of California
19 Labor Code section 223. Plaintiff and other non-party Aggrieved Employees are therefore
20 entitled to recover civil penalties pursuant to sections 225.5 and/or 2699(a), (f), and (g).

21 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

22 **VIOLATION OF LABOR CODE SECTION 2802**

23 123. At all times herein set forth, California Labor Code section 2802 provides that
24 an employer must reimburse employees for all necessary expenditures and losses incurred by
25 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
26 to prevent employers from passing off their cost of doing business and operating expenses on
27 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
28 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: "[w]hen the

1 employer requires the use of tools or equipment or they are necessary to the performance of a
2 job, such tools and equipment shall be provided and maintained by the employer, except that
3 an employee whose wages are at least two (2) times the minimum wage may provide and
4 maintain hand tools and equipment customarily required by the particular trade or craft.”

5 124. First, during the relevant time period, Defendants, on a company-wide basis,
6 required that Plaintiff and other non-party Aggrieved Employees utilize their own personal
7 cellular phones and/or cellular phone data to carry out their job duties, but failed to reimburse
8 them for the costs of their cellular phone and/or data plans. For example, Plaintiff was
9 required to use her personal cellular phone to carry out her work, such as answering calls and
10 text messages from management. Although Defendants required Plaintiff and other non-party
11 Aggrieved Employees to regularly utilize their personal cellular phones to carry out work-
12 related responsibilities, Defendants failed to reimburse them for this cost.

13 125. Second, Defendants, on a company-wide basis, required Plaintiff and other
14 non-party Aggrieved Employees to utilize their own personal vehicles to carry out company
15 business, such as picking up restaurant supplies, but failed to reimburse them for all costs of
16 travel, including mileage. For example, Plaintiff was required to drive her own vehicle to
17 another restaurant location or to a grocery store to pick up ingredients and supplies, such as
18 hamburger buns, sauces, cups, and lids, which added approximately five (5) miles to her
19 morning commute. Although Defendants required that Plaintiff and other non-party
20 Aggrieved Employees use their own vehicles and complete these tasks as part of their job
21 duties, Defendants never reimbursed them for all of their travel expenses.

22 126. Defendants could have provided Plaintiff and other non-party Aggrieved
23 Employees with the actual tools for use on the job, including company phones and company
24 vehicles, or could have reimbursed employees for the costs of their cellular phone usage,
25 mileage, and travel expenses, but instead, Defendants passed these operating costs off onto
26 Plaintiff and other non-party Aggrieved Employees. Thus, Defendants had, and continue to
27 have, a company-wide policy and/or practice of not reimbursing employees for expenses
28 necessarily incurred. At all relevant times, Plaintiff did not earn at least two (2) times the

1 minimum wage.

2 127. Defendants' company-wide policy and/or practice of passing on their operating
3 costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code
4 section 2802. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
5 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

6 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
7 **EMPLOYMENT - VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

8 128. California's Wage Theft Prevention Act was enacted to ensure that employers
9 provide employees with basic information material to their employment relationship at the
10 time of hiring, and to ensure that employees are given written and timely notice of any
11 changes to basic information material to their employment. Codified at California Labor
12 Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an
13 employer must provide written notice to employees containing basic and material payroll
14 information, including, among other things, the rate(s) of pay and basis thereof, whether paid
15 by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for
16 overtime, the regular payday designated by the employer, and any allowances claims as part
17 of the minimum wage, including meal or lodging allowances. Labor Code section
18 2810.5(a)(1)(A)-(C).

19 129. During the relevant time period, Defendants failed to provide other non-party
20 Aggrieved Employees with written notice that lists all the requisite information set forth in
21 Labor Code section 2810.5(a)(1)(A)-(C).

22 130. Defendants' failure to provide other non-party Aggrieved Employees with
23 written notice of basic information regarding their employment with Defendants are in
24 violation of Labor Code section 2810.5. Other non-party Aggrieved Employees are therefore
25 entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

26 **REQUEST FOR JURY TRIAL**

27 Plaintiff requests a trial by jury.

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1 **PRAYER FOR RELIEF**

2 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
3 judgment against Defendants, jointly and severally, as follows:

4 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
5 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

6 **As to the First Cause of Action**

7 2. That the Court declare, adjudge and decree that Defendants violated the
8 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
9 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
10 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512, 516,
11 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
12 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
13 statements and maintain accurate payroll records); 201, 202, 203 (by failing timely to pay all
14 earned wages upon termination); 204 (by failing timely to pay all earned wages during
15 employment); 212 and 213 (by failing to make earned wages accessible without discount);
16 221 and 224 (by collecting and/or receiving wages already paid); 223 (by secretly paying
17 wages lower than required by statute); 2802 (by failing to reimburse business expenses); and
18 2810.5 (by failing to provide written notice of information material to employment).

19 3. For civil penalties, pursuant to California Labor Code sections 210, 225.5,
20 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections
21 201, 202, 203, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d),
22 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

23 4. For attorneys' fees and costs pursuant to California Labor Code section
24 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
25 Labor Code sections 201, 202, 203, 204, 221, 224, 226(a), 226.7, 246, 510, 512(a), 516,
26 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

27 5. For pre-judgment and post-judgment interest as provided by law; and

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1 6. For such other and further relief as the Court may deem equitable and
2 appropriate.

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4 Dated: March 30, 2020

Respectfully submitted,

Capstone Law APC

6
7 By: 

8 Bevin Allen Pike
9 Orlando Villalba
Joseph Hakakian

10 Attorneys for Plaintiff Maria Lopez
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EXHIBIT “1”

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

January 23, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/260>)

Subject: *Maria Lopez v. CalJax, Inc., et al.*

Dear PAGA Administrator:

This office represents Maria Lopez in connection with her claims under the California Labor Code. Ms. Lopez was an employee of CALJAX INC.; C FOOD CONCEPTS, INC.; MARLU LC, INC.; SECRET RIVER, INC.; and/or SMART MANAGEMENT & CO., INC. For the purpose of this letter, Ms. Lopez collectively refers to these entities as "CALJAX."

The employers may be contacted directly at the addresses below:

CALJAX, INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758

C FOOD CONCEPTS, INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758

MARLU LC, INC.
2368 MARITIME DRIVE, SUITE 100
ELK GROVE CA 95758

SECRET RIVER, INC.
2368 MARITIME DRIVE, SUITE 100
ELK GROVE CA 95758

SMART MANAGEMENT & CO., INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758

Ms. Lopez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Lopez seeks relief on behalf of herself, the State of California, and other persons who are or were employed by CALJAX as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

CALJAX employed Ms. Lopez as an hourly paid, non-exempt employee from approximately September 2010 to April 2019. Most recently, Ms. Lopez worked for CALJAX as a Cashier and Cook at one of three Turlock, California Jack in the Box restaurants located at 1951 Lander Road, Turlock, California 95380 (store #3409). During her employment, Ms. Lopez typically worked six (6) to eight (8) hours per day, four (4) to five (5) days per week, and thirty (30) to (40) hours per week, from 6:00 a.m. to 2:00 p.m. At the time Ms. Lopez's employment with CALJAX ended, she earned approximately \$12.00 per hour. Her job duties included, without limitation, cooking and preparing food, operating the cash register, taking customer orders, and processing payments.

CALJAX committed one or more of the following Labor Code violations against Ms. Lopez, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

CALJAX's Company-Wide and Uniform Payroll and HR Practices

CALJAX, INC.; C FOOD CONCEPTS, INC.; MARLU LC, INC.; SECRET RIVER, INC.; and SMART MANAGEMENT & CO., INC. are California corporations. On information and belief, all of the aforementioned companies are headquartered at 2368 Maritime Drive, Suite 100, Elk Grove, California 95758. CALJAX owns and operates approximately 15 Jack in the Box fast-food restaurant locations in California. Upon information and belief, CALJAX maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Elk Grove, California, for all non-exempt, hourly paid employees working for CALJAX in California, including Ms. Lopez and other aggrieved employees. At all relevant times, CALJAX issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Lopez and other aggrieved employees, regardless of its location or position.

Upon information and belief, CALJAX maintains a centralized Payroll department at its corporate headquarters in Elk Grove, California, which processes payroll for all non-exempt, hourly paid employees working for CALJAX in California, including Ms. Lopez and other aggrieved employees. Further, CALJAX issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Lopez and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, CALJAX utilized the same methods and formulas when calculating wages due to Ms. Lopez and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a

¹ These facts, theories, and claims are based on Ms. Lopez's experience and counsel's review of those records currently available relating to Ms. Lopez's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Ms. Lopez reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

CALJAX willfully failed to pay all overtime wages owed to Ms. Lopez and other aggrieved employees. During the relevant time period, Ms. Lopez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, on information and belief, CALJAX had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by each restaurant's labor or payroll budget, which has resulted in and continues to result in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to customers. As a result of this inadequate meal period coverage, Ms. Lopez and other aggrieved employees missed and/or had their meal periods interrupted by work to meet the demands of their workload. For example, Ms. Lopez's unpaid meal periods were interrupted or cut short by 15-20 minutes approximately twice a week, due to CALJAX's management or other employees asking work-related questions regarding restaurant operations.

Second, CALJAX's company-wide timekeeping system locked Ms. Lopez and other aggrieved employees out once they clocked out for a meal period and would not permit them to clock back in from a meal before 30 minutes elapsed. Thus, CALJAX's timekeeping system prevented Ms. Lopez and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted. Alternatively, on information and belief, CALJAX implemented a company-wide policy and practice of automatically deducting meal periods from Ms. Lopez's and/or other aggrieved employees' time records. As a result of this policy, CALJAX deducted 30-minute meal periods from Ms. Lopez's and/or other aggrieved employees' time records even when meal periods were missed, short, and/or interrupted. Further, on information and belief, because CALJAX frowned upon employees accruing meal period penalties, CALJAX pressured Ms. Lopez and/or other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that CALJAX would otherwise owe. Consequently, Ms. Lopez and/or other aggrieved employees performed work during meal periods for which they were not paid.

Third, CALJAX had, and continues to have, a company-wide policy and/or practice of requiring Ms. Lopez and other aggrieved employees to communicate with CALJAX's management while off-the-clock, using their personal cellular phones, and had the expectation that Ms. Lopez and other aggrieved employees promptly respond to these messages. As a result, Ms. Lopez and other aggrieved employees spent time responding to CALJAX's communications to them regarding work-related matters, such as obtaining restaurant supplies and inventory. For example, Ms. Lopez spent 30-45 minutes each week reviewing and responding to text messages and calls from CALJAX's supervisors, while off-the-clock.

Fourth, CALJAX had, and continues to have, a company-wide policy and/or practice requiring Ms. Lopez and other aggrieved employees to perform tasks off-the-clock, such as picking up restaurant ingredients and supplies from other CALJAX restaurant locations or grocery stores. For example, CALJAX's supervisors would ask Ms. Lopez to drive and pick up ingredients from CALJAX's two other Turlock restaurant locations or purchase supplies like Ziploc bags from a grocery store on her way to work, while off-the-clock, which could take 20-30 minutes each time, work for which she was not always paid. Additionally, as mentioned above, CALJAX's policy and/or practice of understaffing while assigning heavy workloads also led to Ms. Lopez and other aggrieved employees performing work off-the-clock after their shifts in order to complete their assigned tasks. For example, Ms. Lopez would regularly clock out and continue working a few times per week, for 30 minutes or more, and to assist the following shift with their workload and serve food to customers.

CALJAX knew or should have known that as a result of these company-wide practices and/or policies, Ms. Lopez and other aggrieved employees were working before and after their shifts and/or during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Lopez and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Lopez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, CALJAX did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, CALJAX paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CALJAX failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, CALJAX failed to pay all overtime wages by paying a lower overtime rate than required.

Ms. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 5 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As set forth above, due to CALJAX's uniform practice of utilizing labor budgets, resultant understaffing, and a lack of meal period coverage, Ms. Lopez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. And, as described above, CALJAX's timekeeping system did not permit Ms. Lopez and other aggrieved employees to clock back in early when their meal periods were interrupted or cut short. Alternatively, as stated, CALJAX had a company-wide practice and/or policy of automatically deducting meal periods from Ms. Lopez's and/or other aggrieved employees'

time records, even when meal periods were missed, short, and/or interrupted. Furthermore, in order to limit meal penalties that CALJAX would otherwise owe, CALJAX pressured Ms. Lopez and/or other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods. In addition, Ms. Lopez and other aggrieved employees were required to perform work off-the-clock before or after their shifts by responding to work-related calls and text messages from CALJAX's management; by running errands, such as picking up restaurant ingredients and supplies from other CALJAX restaurant locations or a grocery store; or by assisting the following shift with their workload after clocking out.

Thus, CALJAX did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, CALJAX did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1. Accordingly, CALJAX regularly failed to pay at least minimum wages to Ms. Lopez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198.

Ms. Lopez and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal and rest period and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As set forth above, during the relevant time period, CALJAX had, and continues to have, a company-wide policy and/or practice of labor budgeting, understaffing, and failure to provide adequate meal period coverage, which prevented Ms. Lopez and other aggrieved employees from taking compliant meal periods and caused Ms. Lopez and other aggrieved employees to work off-the-clock without that time being recorded. Additionally, CALJAX did not schedule meal periods or failed to adhere to a schedule of meal periods, resulting in Ms. Lopez and other aggrieved employees waiting extended periods of time before taking meal periods due to the heavy workload.

Furthermore, as described above, CALJAX implemented an electronic timekeeping system that locked Ms. Lopez and other aggrieved employees out and prevented them from clocking in early

before the end of their 30-minute meal period. As a result of CALJAX's timekeeping system, Ms. Lopez and other aggrieved employees were prevented from accurately recording when they had to return early from a meal period so that they could be compensated for that time. Alternatively, as described above, CALJAX implemented a company-wide policy and practice of automatically deducting meal periods from Ms. Lopez's and/or other aggrieved employees' time records, even when meal periods were missed short, and/or interrupted. Thus, CALJAX systematically failed to correctly record meal periods. Furthermore, because CALJAX frowned upon employees accruing meal period penalties, CALJAX's management would adjust Ms. Lopez's and/or other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by CALJAX. Consequently, Ms. Lopez and/or other aggrieved employees performed work during meal periods for which they were not paid.

As a result, Ms. Lopez and other aggrieved employees had to work through part or all of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, during her employment, Ms. Lopez's meal periods were cut short or interrupted several times per week, due to a lack of coverage resulting from having too few employees on duty to handle the workload.

In addition, during the relevant time period, other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Ms. Lopez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

CALJAX knew or should have known that as a result of its non-compliant policies and practice of understaffing locations due to labor budgeting and avoiding meal period penalties, that Ms. Lopez and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. CALJAX further knew or should have known that it did not pay Ms. Lopez and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted.

Furthermore, CALJAX engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Lopez and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that CALJAX did pay meal period premium wages to other aggrieved employees, it did so at the incorrect rates. Because CALJAX did not properly calculate other aggrieved employees' regular rates of pay by including all remunerations, such incentive pay and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, CALJAX failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Lopez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties — including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, CALJAX regularly failed to authorize and permit Ms. Lopez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, CALJAX’s company-wide practices, including utilizing labor budgets and resultant understaffing while assigning heavy workloads, resulted in a lack of rest period coverage and prevented Ms. Lopez and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. CALJAX also failed to schedule rest periods or adhere to a schedule of rest periods, which, coupled with CALJAX’s failure to provide adequate rest period coverage, further led to Ms. Lopez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, CALJAX maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Lopez and other aggrieved employees remain on CALJAX’s premises during their rest periods. Upon information and belief, CALJAX’s company-wide on-premises rest period policy prevented Ms. Lopez and other aggrieved employees from being relieved of all duties for rest periods and caused them to perform work during rest periods.

As a result, Ms. Lopez and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, Ms. Lopez frequently worked through her shifts without taking her 10-minute rest periods.

CALJAX also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Alternatively, to the extent that CALJAX did pay rest period premiums to other aggrieved employees, it did so at the incorrect rates. Because CALJAX did not properly calculate other aggrieved employees’ regular rates of pay by including all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums for missed rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, CALJAX failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Lopez and other aggrieved employees are entitled to civil

penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. CALJAX has not provided Ms. Lopez and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, CALJAX has knowingly and intentionally provided Ms. Lopez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CALJAX issued uniform wage statements to Ms. Lopez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, CALJAX violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because CALJAX did not record the time Ms. Lopez and other aggrieved employees spent working off-the-clock and deducted time from Ms. Lopez's and/or other aggrieved employees' records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), CALJAX did not list the correct amount of gross wages and net wages earned by Ms. Lopez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, CALJAX failed to accurately list the total number of hours worked by Ms. Lopez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Further, because CALJAX did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, CALJAX did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, CALJAX also failed to list the correct amount of net wages in violation of section 226(a)(5). CALJAX also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for meal and rest premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive

dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), CALJAX willfully failed to maintain accurate payroll records for Ms. Lopez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, CALJAX failed, on a company-wide basis, to keep accurate records of meal period start and stop times for Ms. Lopez and other aggrieved employees, in violation of section 1198. As stated, CALJAX engaged in a company-wide practice and/or policy of falsifying Ms. Lopez’s and/or other aggrieved employees’ time records by automatically deducting meal periods or recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Lopez and other aggrieved employees. Furthermore, in light of CALJAX’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, CALJAX kept no records of meal start and end times for second meal periods.

Because CALJAX failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Lopez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Lopez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon

termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, CALJAX failed to pay Ms. Lopez and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Ms. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

CALJAX willfully failed to pay Ms. Lopez and other aggrieved employees who are no longer employed by CALJAX all their earned wages, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving CALJAX's employ in violation of California Labor Code sections 201, 202, and 203.

Ms. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 212 and 213 – Unlawful Direct Deposit and Discount of Wages

California Labor Code section 212 prohibits employers from issuing any instruments for the payment of wages unless such instruments are negotiable and payable in cash on demand and without discount. California Labor Code section 213 permits employers to pay employees via direct deposit so long as the employee authorizes payment via direct deposit. Under California law, employers are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but only under certain circumstances. Employer use of payroll debit cards is permitted only so long as the employee is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards Enforcement ("DLSE") decision deeming payroll debit card program permissible relied heavily on:

. . . [T]he fact that the pay programs were optional, thereby allowing an employee to either participate in the program or receive his or her pay in some other way, such as direct deposit. Specifically, the DLSE opined that “[t]he success of the described procedure, in practice, will of course require that . . . it is presented as an *alternative* method for wage payment for which [the employees’] participation is optional.” The DLSE also stated, “[i]t is significant that the program does not mandate employee participation in the Money Network Service and that it is designed to provide an alternative for employees receiving their wage payment. Employees are also given the option of having their pay direct deposited into an account of their choosing . . .” (internal citations omitted).

In addition, employers can only utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

- (1) [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,”
- (2) the employees are “fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,”
- (3) the employees receive “an itemized wage statement,” and
- (4) “at least one transaction per pay period [is] without fee.”

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

Further, the DLSE notes that the Labor Code manifests:

. . . [A] strong public policy that prohibits an employer (or its agent) from imposing conditions or obstacles which interfere with or prevent an employee’s (*sic*) from promptly receiving their due wages *in full*. The imposition of a fee in order to readily *access* one’s earned and paid wages under a payroll card program which is designed to discharge the employer’s wage payment obligations could impermissibly interfere with an employee’s receipt of paid wages by creating a financial condition which would have the *effect* of reducing or discounting wages because such fee would be charged against the same account in which wages are deposited. (emphases in original)

DLSE opinion letter 2008.07.07. The DLSE has also acknowledged that payroll service providers “effectively act as *agents* of the client employers in discharging the employer’s wage payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor Code does not purport to regulate the specific arrangements between employers and payroll service providers, both an employer and, under the express language in Labor Code § 212- their *agent*, must comply with its requirements.” *DLSE opinion letter 2008.07.07.2*.

During the relevant time period, CALJAX had an agreement with a payroll service provider for the issuance of payroll cards to employees, including Ms. Lopez and other aggrieved employees, to discharge its wage payment obligations to its employees. CALJAX’s payroll debit card program was

not voluntary or optional to employees. CALJAX had a practice and/or policy of automatically issuing payroll debit cards to employees without giving them the option to elect their form of payment for their wages. For example, Ms. Lopez received her wages on a payroll debit card without a choice of an alternative method, including a written check. Instead, CALJAX automatically enrolled Ms. Lopez in its payroll debit card payment for the purpose of issuing her wages to her.

Moreover, under CALJAX's payroll debit program, on information and belief, CALJAX did not permit Ms. Lopez and other aggrieved employees to withdraw their entire wages in at least one transaction without incurring a fee. For example, Ms. Lopez utilized ATMs to try to withdraw her wages but could not obtain the entire amount because ATMs only disburse cash in limited denominations. Additionally, Ms. Lopez also encountered approximately \$3.00 ATM fees each time she utilized an ATM to withdraw funds from her payroll debit card, which resulted in a discount in her pay.

California courts recognize a policy favoring the full and prompt payment of wages to employees. CALJAX's payroll card program is inconsistent with this policy. Because CALJAX's company-wide payroll debit card program is involuntary and denies aggrieved employees of easy access to the entirety of their wages, the program violates California Labor Code sections 212 and 213. Ms. Lopez and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee." During the relevant time period, CALJAX unlawfully deducted a portion of wages previously paid to Ms. Lopez and other aggrieved employees in violation of California Labor Code section 221.

CALJAX systematically, and on a company-wide basis, provided Ms. Lopez and other aggrieved employees with payroll debit cards as payment of their wages. Under CALJAX's payroll debit card program, Ms. Lopez and other aggrieved employees were assessed various fees in connection with their use of the payroll debit cards. Ms. Lopez and other aggrieved employees were required to pay per-transaction fees, ATM fees, in-person teller fees, and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Ms. Lopez and other aggrieved employees resulted in a discount of their wages.

CALJAX's payroll debit card program, which resulted in a discount of wages to employees, is tantamount to taking deductions from Ms. Lopez's and other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Ms. Lopez and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, CALJAX willfully and systematically issued payroll debit cards to Ms. Lopez and other aggrieved employees. The payroll debit cards discounted the wages of Ms. Lopez and other aggrieved employees by charging various fees in connection with the use of the payroll debit cards. CALJAX's payroll debit card program resulted in the payment of less than statutorily-required wages to Ms. Lopez and other aggrieved employees. In doing so, CALJAX acted with the intent to deprive Ms. Lopez and other aggrieved employees of statutory wages, including, but not limited to, overtime wages and minimum wages to which they were entitled to under California law. Thus, CALJAX paid Ms. Lopez and other aggrieved employees lower wages than those they were entitled to while purporting that Ms. Lopez and other aggrieved employees were properly paid.

Ms. Lopez and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11050(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.” California Code of Regulations, Title 8, section 11050(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

CALJAX’s restaurant locations are generally similar in their layout and design and there is ample space behind each cash register to allow for the presence and use of a seat or stool by Ms. Lopez and other aggrieved employees during the performance of their work duties. CALJAX could provide

aggrieved employees with a seat or stool at cash registers, with reasonable or no modification to these work areas, but instead denies them seating and forces aggrieved employees to stand throughout the day.

Ms. Lopez and other aggrieved employees spent a substantial portion of their day behind cash registers, regardless of their actual job title or description. The nature of the work of an employee performing cashier duties can reasonably be accomplished from a seated position. However, CALJAX systematically, and on a company-wide basis, did not provide seats or stools at or near each cash register, forcing employees, including Ms. Lopez and other aggrieved employees, to stand throughout their work shifts.

CALJAX violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A)-(B) because Ms. Lopez and other aggrieved employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. A substantial portion of Ms. Lopez's and other aggrieved employees' duties that were performed from and connected to a cash register could have been performed from a seated position. Ms. Lopez and other aggrieved employees could have handled transactions at the cash register and provided customer service, while seated without interference to their ability to complete these duties. Ms. Lopez was required to stand the entire time when at a cash register because CALJAX did not provide seats or stools behind the cash register.

In addition, CALJAX did not provide Ms. Lopez and other aggrieved employees with seats or stools in reasonable proximity to cash registers to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Ms. Lopez and other aggrieved employees engaged in duties in which the nature of the work required standing, CALJAX denied them the use of seats nearby when they were not engaged in those duties. Even though the layout of areas adjacent to cash registers could accommodate seats or stools with reasonable or no modification to these work areas, CALJAX has, on a company-wide basis, denied Ms. Lopez and other aggrieved employees suitable seating altogether.

Moreover, CALJAX did not inform Ms. Lopez and other aggrieved employees of their rights to a seat or stool under California law. As a result of CALJAX's company-wide policy and/or practice of prohibiting all employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Ms. Lopez and other aggrieved employees were forced to stand during shifts and denied seats. CALJAX's failure to provide suitable seating to Ms. Lopez and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(A)-(B).

Ms. Lopez and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring CALJAX into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137,

1144 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

First, during the relevant time period, CALJAX, on a company-wide basis, required that Ms. Lopez and other aggrieved employees utilize their own personal cellular phones and/or cellular phone data to carry out their job duties, but failed to reimburse them for the costs of their cellular phone and/or data plans. For example, Ms. Lopez was required to use her personal cellular phone to carry out her work, such as answering calls and text messages from management. Although CALJAX required Ms. Lopez and other aggrieved employees to regularly utilize their personal cellular phones to carry out work-related responsibilities, CALJAX failed to reimburse them for this cost.

Second, CALJAX, on a company-wide basis, required Ms. Lopez and other aggrieved employees to utilize their own personal vehicles to carry out company business, such as picking up restaurant supplies, but failed to reimburse them for all costs of travel, including mileage. For example, Ms. Lopez was required to drive her own vehicle to another CALJAX location or to a grocery store to pick up ingredients and supplies, such as hamburger buns, sauces, cups, and lids, which added approximately 5 miles to her morning commute. Although CALJAX required that Ms. Lopez and other aggrieved employees use their own vehicles and complete these tasks as part of their job duties, CALJAX never reimbursed them for all of their travel expenses.

CALJAX could have provided Ms. Lopez and other aggrieved employees with the actual tools required for use on the job, including company phones and company vehicles, or CALJAX could have reimbursed Ms. Lopez and other aggrieved employees for their cost of their cellular phone usage, mileage, and travel expenses. Instead, CALJAX passed these operating costs off onto Ms. Lopez and other aggrieved employees. At all relevant times, Ms. Lopez did not earn at least two (2) times the minimum wage.

Thus, CALJAX had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Lopez and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California’s Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer’s written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid

sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

CALJAX failed to provide other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C), including an overtime rate of pay. CALJAX's failure to provide and other aggrieved employees with written notice of basic information regarding their employment with CALJAX is in violation of Labor Code section 2810.5.

Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." CALJAX, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Lopez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Lopez seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Lopez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against CALJAX for violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Lopez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: CALJAX INC. (via U.S. Certified Mail); C FOOD CONCEPTS, INC. (via U.S. Certified Mail); MARLU LC, INC. (via U.S. Certified Mail); SECRET RIVER, INC. (via U.S. Certified Mail); SMART MANAGEMENT & CO., INC. (via U.S. Certified Mail)

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2. Article Number (Transfer from service label)

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 - ☐ Adult Signature Required \$
 - ☐ Adult Signature Restricted Delivery \$

Postage
 \$ 1.63
 Total Postage and Fees
 \$ 7.93

Sent To

CALJAX, INC.

Street and Apt. No., or PO Box No.
 2368 MARITIME DR., SUITE 100
 City, State, ZIP+4®
 ELK GROVE CA 95758

PS Form 3800, April 2015 PSN 7530-02-000-0047

See Reverse for Instructions

Postmark
 Here

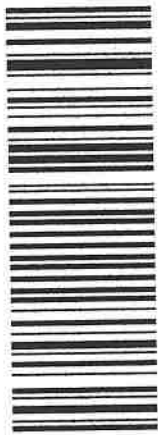
Lopez v. CalJax, Inc.

ine
 APC
 Park East, Ste 1000
 CA 90067

ine

W APC
Park East, Ste 1000
CA 90067

CERTIFIED MAIL



7019 0700 0001 7653 0769

MARLU LC, INC.
2368 MARITIME DRIVE, SUITE 100
ELK GROVE CA 95758



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
MARLU LC, INC.
2368 MARITIME DRIVE, SUITE 100
ELK GROVE CA 95758



9590 9403 0424 5163 3657 92

2. Article Number (Transfer from service label)
7019 0700 0001 7653 0769

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent ☒ Addressee
X
B. Received by (Printed Name) C. Date of Delivery
D. Is delivery address different from item 1? ☐ Yes ☒ No
If YES, enter delivery address below:

3. Service Type ☐ Priority Mail Express®
☐ Adult Signature ☐ Registered Mail™
☐ Adult Signature Restricted Delivery ☐ Registered Mail Restricted Delivery
☒ Certified Mail® ☐ Return Receipt for Merchandise
☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™
☐ Collect on Delivery ☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery
☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$ 3.50
Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$ 2.50
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ 1.63
Total Postage and Fees
\$ 7.43

Sent To
MARLU LC, INC.
Street and Apt. No., or PO Box No.
2368 MARITIME DRIVE, SUITE 100
City, State, ZIP+4®
ELK GROVE CA 95758

Postmark
Here
Lopez v. Marlu
LC, Inc.

PS Form 3800, April 2015 PSN 7530-02-000-0047 See Reverse for Instructions

7019 0700 0001 7653 0769

UNITED STATES POSTAGE
PITNEY BOWES
\$007.930
02 1P
000666553 JAN 23 2020
MAILED FROM ZIP CODE 90067



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SMART MANAGEMENT & CO., INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758



9590 9403 0424 5163 3657 85

2. Article Number (Transfer from service label)
7019 0700 0001 7653 0776

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee
B. Received by (Printed Name) C. Date of Delivery
D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

3. Service Type
☐ Adult Signature ☐ Priority Mail Express®
☐ Adult Signature Restricted Delivery ☐ Registered Mail™
☒ Certified Mail® ☐ Registered Mail Restricted Delivery
☐ Certified Mail Restricted Delivery ☐ Return Receipt for Merchandise
☐ Collect on Delivery ☐ Signature Confirmation™
☐ Insured Mail (over \$500) ☐ Signature Confirmation Restricted Delivery
☐ Registered Mail Restricted Delivery (over \$500)

Domestic Return Receipt



7019 0700 0001 7653 0776

SMART MANAGEMENT & CO., INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
\$ 3.50
Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) **\$ 2.80**
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ 1.63
Total Postage and Fees
\$ 7.93

Postmark
Here

**Lopez v. Smart
Management & CO.,
Inc.**

Sent To
SMART MANAGEMENT & CO., INC.
Street and Apt. No., or PO Box No.
2368 MARITIME DR., SUITE 100
City, State, ZIP+4®
ELK GROVE CA 95758

PS Form 3800, April 2015 PSN 7530-02-000-8047 See Reverse for Instructions

one
AW APC
Park East, Ste 1000
CA 90067

ne
W APC
Park East, Ste 1000
CA 90067

CERTIFIED MAIL



7019 0700 0001 7653 0783

C FOOD CONCEPTS, INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

C FOOD CONCEPTS, INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758



9590 9403 0424 5163 3657 78

2. Article Number (Transfer from service label)

7019 0700 0001 7653 0783

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
- If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.50
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

C FOOD CONCEPTS, INC.
2368 MARITIME DR., SUITE 100
ELK GROVE CA 95758

Postmark
Here

Lopez v. C food
Concepts, Inc.

7019 0700 0001 7653 0783

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instruction

UNITED STATES POSTAGE
PITNEY BOWES
\$007.93
02 1P
0000666553 JAN 23 2020
MAILED FROM ZIP CODE 90067



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SECRET RIVER, INC.
2368 MARITIME DRIVE, SUITE 100
ELK GROVE CA 95758



9590 9403 0424 5163 3657 61

2. Article Number (Transfer from service label)
7019 0700 0001 7653 0790

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
□ Agent
□ Addressee

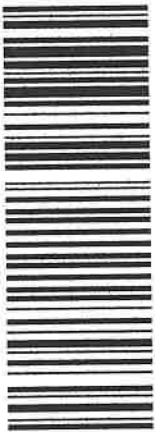
B. Received by (Printed Name)
C. Date of Delivery

D. Is delivery address different from item 1? □ Yes
If YES, enter delivery address below: □ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL



7019 0700 0001 7653 0790

SECRET RIVER, INC.
2368 MARITIME DRIVE, SUITE 100
ELK GROVE CA 95758

ine
WAPC
Park East, Ste 1000
CA 90067

7019 0700 0001 7653 0790

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only**

For delivery information, visit our website at www.usps.com

OFFICIAL USE

Certified Mail Fee
\$ 3.50
Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$ 2.50
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage
\$ 1.63
Total Postage and Fees
\$ 7.93

Postmark
Here
Lopez V. Secret
River, Inc.

Sent To
SECRET RIVER, INC.
Street and Apt. No. or PO Box No.
2368 MARITIME DRIVE, SUITE 100
City, State, ZIP+4®
ELK GROVE CA 95758