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Superior Court of California
County of Los Angeles

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CINDY GALLOWAY

SUPERIOR COURT OF CALIFORNIA

IN AND FOR LOS ANGELES

20ST CV36407

CINDY GALLOWAY, as an individual and on
all others similarly situated and aggrieved,

CASE NO.

Plaintiff,

**PRIVATE ATTORNEYS GENERAL
ACT ("PAGA") REPRESENTATIVE
COMPLAINT**

vs.

JURY TRIAL DEMANDED

P.F. CHANG'S III, LLC, an Arizona limited
liability company; P.F. CHANG'S CHINA
BISTRO, INC., a Delaware Corporation; PEI
WEI ASIAN DINER, LLC, a Delaware limited
liability company; and DOES 1 to 100,
inclusive,

Defendants.

1 Plaintiff CINDY GALLOWAY, and individual on behalf of herself and all other
2 employees similarly situated, hereby files this Complaint against Defendants P.F. CHANG'S III,
3 LLC, an Arizona limited liability company; P.F. CHANG'S CHINA BISTRO, INC., a Delaware
4 Corporation; and PEI WEI ASIAN DINER, LLC, a Delaware limited liability company
5 (collectively referred to herein as "Defendants"). Plaintiff is informed and believes, and on the
6 basis of that information and belief, allege as follows:

7 THE PARTIES

- 8 1. Plaintiff CINDY GALLOWAY is and at relevant times was, an individual domiciled in
9 the State of California and a citizen of the State of California who worked as a non-
10 exempt restaurant staff worker for Defendants in the State of California.
- 11 2. Defendants P.F. CHANG'S III, LLC is an Arizona limited liability company that, at all
12 relevant times, was authorized to do business within the State of California and is doing
13 business in the State of California.
- 14 3. Defendants P.F. CHANG'S CHINA BISTRO, INC. is a Delaware limited liability
15 company that, at all relevant times, was authorized to do business within the State of
16 California and is doing business in the State of California.
- 17 4. PEI WEI ASIAN DINER, LLC is a Delaware limited liability company that, at all
18 relevant times, was authorized to do business within the State of California and is doing
19 business in the State of California.
- 20 5. Defendants own and operate an Asian restaurant concept, which according to its website,
21 operate over 210 U.S. restaurants, including airport locations, plus over 95 restaurants in
22 more than 25 countries across the globe.
- 23 6. The true names and capacities of the DOE Defendants sued herein as DOES 1 through
24 100, inclusive, are currently unknown to Plaintiff, who therefore sues each such
25 Defendants by said fictitious names. Each of the Defendants designated herein as a DOE
26 is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of
27 Court to amend this Complaint to reflect the true names and capacities of the Doe
28 Defendants when such identities become known.

1 7. Plaintiff is informed and believes that, at all relevant times, Defendants operated as
2 single integrated enterprise. Among other things, Plaintiff is informed and believes that: (1) there
3 is common ownership in, and financial control, in the Defendants' restaurant concepts, including
4 but not limited to the P.F. Chang's Bistro restaurant located in Santa Monica, California where
5 Plaintiff worked; (2) Defendants utilize common management, who have control over the day-to-
6 day operations and employment matters, including the power to hire and fire, set schedules, issue
7 employee policies, and determine rates of compensation across its clubs in California, including
8 but not limited to P.F. Chang's Bistro's Santa Monica, CA location; (3) Defendants utilize the
9 same policies and procedures for all California non-exempt employees, including issuing the
10 same employee handbooks and other form agreements; (4) Defendants use at least some of the
11 same Human Resources personnel and attorneys to oversee employment matters; and, (6)
12 Defendants share employees.

13 8. Plaintiff is further informed and believes that, at all relevant times, each Defendants
14 was the principal, agent, partner, joint venturer, joint employer, officer, director, controlling
15 shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in
16 interest of some or all of the other Defendants, and was engaged with some or all of the other
17 defendants in a joint enterprise for profit, and bore such other relationships to some or all of the
18 other Defendants so as to be liable for their conduct with respect to the matters alleged in this
19 complaint. Plaintiff is further informed and believes and thereon alleges that each Defendants
20 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
21 times, each Defendants knew or should have known about, authorized, ratified, adopted,
22 approved, controlled, aided and abetted the conduct of all other Defendants.

23 9. At all relevant times, Defendants were and are legally responsible for all of the unlawful
24 conduct, policies, practices, acts and omissions complained of herein. Further, Defendants
25 are responsible for each of the unlawful acts or omissions complained of herein under the
26 doctrine of respondent superior. The conduct of Defendants' managers and supervisors
27 was at all relevant times undertaken as employees of Defendants, acting within the scope
28 of their employment or authority in all of the unlawful activities described herein.

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1 assist customers, particularly during peak times, during these breaks. This practice
2 resulted in Plaintiff being underpaid for her actual hours worked.

3 18. Defendants paid Plaintiff multiple rates of pay in certain pay periods which were not
4 properly blended and/or incorporated into the regular rate for purposes of calculating
5 overtime, resulting in an underpayment of overtime wages to Plaintiff;

6 19. Plaintiff was required to be on her feet all day and was not provided any seating by
7 Defendants, even though her position would have permitted it.

8 20. Upon information and belief, Plaintiff alleges that Defendants failed to maintain accurate
9 records of all gratuities it received for each and every aggrieved employee, including
10 Plaintiff, in violation of Labor Code Section 353.

11 21. During her employment, Plaintiff failed to receive accurate wage statements in
12 compliance with Labor Code section 226. Among other things, Plaintiff's paystubs did
13 not include: (1) the correct total hours that Plaintiff worked during each pay period: (2) the
14 correct overtime and double time rate; and (3) the correct total net wages. Furthermore,
15 with respect to the hours included in the pay period, Plaintiff's wage statements did not
16 provide a separate category calculating the total hours worked by Plaintiff. Rather,
17 Plaintiff's paystubs listed the number of hours worked at the regular rate of pay, and
18 stated the number of overtime hours under both the "OT Base Rate" and "OT Premium
19 Rate" categories. For example, one of Plaintiff's wage statements provided that she
20 worked a total of 25.29 hours under "Regular" rate of pay for week 1 of the pay period,
21 and 2.28 hours twice under the "OT Base Rate" and "OT Premium Rate" rates of pay for
22 week 1 of the pay period. If an employee sought to calculate the total number of hours
23 worked during a pay period, they would have to add the hours listed under the "Regular"
24 and "OT Base Rate" and "OT Premium Rate" categories. However, if an employee were
25 to add the hours corresponding to all three of these categories, the total hours worked
26 would be incorrect. Next, corresponding to each of the three categories listed in the wage
27 statements, the regular rate of pay ("Regular") was the same as the "Overtime Base Rate"
28 rate, and the "Overtime Premium Rate" rate was half of the regular rate. (*Id.* at 26:25-

1 27:4.) As such, under this system, an employee would have to add the regular rate of pay
2 to the one listed under “Overtime Premium Rate” to determine that her or her overtime
3 rate is a time and a half the regular rate. As a result, Defendants failed to provide the total
4 hours that an employee worked during a pay period in violation of § 226(a)(2), and
5 Defendants did not comply with § 226(a)(9)'s requirement that all applicable hourly rates
6 in effect during the pay period, with corresponding hours worked at that rate, appear on
7 the wage statement.

8 22. Plaintiff’s employment with Defendants ended on January 4, 2020, yet Plaintiff’s final
9 payroll check, dated January 20, 2020, was not timely provided to Plaintiff. Defendants
10 failed to pay Plaintiff for all hours worked during her employment and upon the
11 separation of employment, including failing to pay Plaintiff for the “off-the-clock” she
12 performed, as well as all overtime hours at the proper overtime rate of pay she performed.

13 23. Plaintiff is informed and believes that Defendants engaged in these same unlawful
14 practices with regard to all of the aggrieved employees.

15 24. Plaintiff brings her complaint under the Private Attorneys General Act of 2004, Labor
16 Code sections 2698, *et seq.*, (“PAGA”), as a representative action on behalf of the State of
17 California, regarding violations of the Labor Code as to all similarly aggrieved individuals
18 employed by Defendants in the State of California as a non-exempt employee. This action
19 is brought solely pursuant to PAGA and seeks no relief beyond that available under
20 PAGA.

21 25. During the period beginning one-year period preceding the filing of the required PAGA
22 notice with the Labor Workforce and Development Agency, and continuing through the
23 present, as alleged herein, Defendants violated Labor Code sections 201-203, 204, 216,
24 226, 226.7, 353, 510, 512, 1174, 1194, 1197, 1198, 1199, and all relevant sections of the
25 applicable Wage Orders as to Plaintiff and all other similarly aggrieved employees
26 employed by Defendants in any non-exempt position, however titled. These violations
27 subject Defendants to civil penalties as set forth in the foregoing statutes as well as
28 other provisions of the Labor Code, including without limitation Labor Code sections

203, 256, 210, 558, 558.1, 1174.5, 1197.1 and 2699.

FIRST CAUSE OF ACTION

VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT,

LABOR CODE SECTIONS 2698, ET SEQ.

26. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

27. California law provides employees in California must be paid for all hours worked, up to 40 per week or 8 per day, at a regular time rate no less than the mandated minimum wage. California law also provides employees in California must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day. Plaintiff and similarly aggrieved employees regularly worked hours, including overtime hours, for which they were not compensated by Defendants as required by California law. Plaintiff and the similarly situated aggrieved employees did not receive all wages for all hours worked because of Defendants' uniform policies and practices concerning the recording, calculation and payment of minimum and overtime wages. Plaintiff and similarly situated aggrieved employees were not paid for all hours worked and/or at the correct rates of pay. Defendants also required Plaintiff and similarly situated aggrieved employees to perform work off-the-clock. Defendants also did not provide Plaintiff and the similarly situated aggrieved employees with timely, duty-free and uninterrupted meal and rest periods, or with compensation in lieu thereof, as required by California law. Additionally, Defendants failed to provide accurate, itemized wage statements to Plaintiff and the similarly situated aggrieved employees, and failed to pay Plaintiff and the similarly situated aggrieved employees all wages due in a timely fashion during in employment and upon separation of employment. Plaintiff and the aggrieved employees were also required to be on their feet all day and were not provided any seating by Defendants, even though their positions would have permitted it. Upon information and belief, Plaintiff alleges that Defendants failed to maintain accurate records of all gratuities it received for each and every aggrieved employee, including Plaintiff, in violation of this Section. The foregoing violations subject Defendants to civil penalties

1 under the foregoing Labor Code sections and other applicable Labor Code sections,
2 including without limitation Labor Code sections above-described Labor Code Sections
3 and all applicable wage order sections. Each violation of each Labor Code section and
4 Wage Order provision, for each aggrieved employee, results in a separate civil penalty.

5 28. Under the Labor Code and IWC Wage Orders, Defendants was required to provide
6 Plaintiff and similarly aggrieved employees with one 30-minute meal break free from all
7 duties for all shifts longer than 5 hours, and a second 30-minute meal break free from all
8 duties for all shifts longer than 10 hours. Meal periods can be waived, but only under the
9 following circumstances: (1) if an employee's total work period in a day is over five (5)
10 hours but no more than six (6) hours, the required meal period may be waived by mutual
11 consent of the employer and employee, and (2) if an employee's total work period in a day
12 is over ten (10) hours but no more than twelve (12) hours, the required second meal period
13 may be waived by mutual consent of the employer and employee, but only if the first meal
14 period was not waived. Employers covered by the Wage Orders have an obligation to both
15 (1) relieve their employees for at least one meal period for shifts over five hours (see
16 above), and (2) to record having done so. If the employer fails to properly record a valid
17 meal period, it is presumed no meal period was provided.

18 29. Plaintiff and the aggrieved employees regularly worked periods of more than five and ten
19 hours in a workday without being provided proper mandatory thirty-minute, duty-free
20 meal periods. Upon information and belief, Defendants failed to maintain a company
21 meal period policy compliant with California law. Plaintiff and the aggrieved employees
22 were at times unable to take timely, thirty-minute uninterrupted meal periods and/or had
23 their meal periods cut short due, particularly during peak restaurant hours, due to the
24 pressures from the restaurant traffic and lack of relief workers availability, commentary
25 from superiors or no breaks at all. Defendants regularly and routinely failed to provide
26 Plaintiff and other aggrieved employees with a second meal period regardless of the
27 number of hours they worked. Per Defendants' illegal meal period policy/practice,
28 Plaintiff and the aggrieved employees were not always relieved of their duties or

permitted to leave the premises for purposes of taking meal periods. Defendants also failed to pay Plaintiff and the aggrieved employees an additional hour of wages at their regular rates of pay for each workday a meal period was not provided. Defendants also failed to provide Plaintiff and the aggrieved employees with all required meal periods, or with compensation in lieu thereof. . Defendants' failure to provide compliant off-duty, thirty-minute meal periods, and failure to pay a corresponding additional hour of wages for meal period premiums, to Plaintiff and other similarly aggrieved employees violates Labor Code sections 512, 226.7, and Wage Order 5-2001, section 11. These violations subject Defendants to civil penalties under the Labor Code, including without limitation sections 558, 558.1, 226.7 and 2699, and section 20 of all applicable wage orders. Each violation of each Labor Code section and Wage Order provision, for each aggrieved employee, results in a separate civil penalty.

30. Defendants employed policies and procedures that ensured Plaintiff and other aggrieved employees would not receive all legally required rest periods, as Defendants did not authorize and permit all required rest periods in strict accordance to, and in compliance with, the timing requirements of all applicable Wage Orders. Defendants similarly employed policies and procedures that rendered rest periods non-compliant with the requirements of California law by, *inter alia*, only providing Plaintiff and aggrieved employees with a maximum of two rest breaks per shift regardless of the number of hours worked, and failing to relieve Plaintiff and aggrieved employees of all duties and all employer control. Similar to meal breaks, Plaintiff and the aggrieved employees were not always able to avail themselves of their rest breaks for various reasons, including, the pressures from their workloads and the lack of relief workers available, commentary from superiors or no breaks at all. Per Defendants' illegal rest period policy/practice, Plaintiff and aggrieved employees were not always relieved of their duties or permitted to leave the premises for purposes of taking rest periods. Defendants further employed policies and procedures ensuring Plaintiff and aggrieved employees did not receive premium wages to compensate them for workdays they did not receive all legally required and fully

1 compliant rest periods. Defendants also failed to provide Plaintiff and the aggrieved
2 employees with all required rest periods, or with compensation in lieu thereof.
3 Defendants' failure to provide compliant off-duty rest periods, and failure to pay a
4 corresponding additional hour of wages for rest period premiums, to Plaintiff and other
5 similarly aggrieved employees violates Labor Code sections 512, 226.7, and Wage Order
6 5-2001, section 11. These violations subject Defendants to civil penalties under the Labor
7 Code, including without limitation sections 558, 558.1, 226.7 and 2699, and section 20 of
8 all applicable wage orders. Each violation of each Labor Code section and Wage Order
9 provision, for each aggrieved employee, results in a separate civil penalty.

10 31. California law requires employers to pay overtime equal to one and one-half times the
11 regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and
12 each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage
13 Order 5-2001, §3. Defendants must pay overtime equal to double the regular hourly rate
14 of pay for each hour worked beyond twelve (12) hours per workday and for all hours
15 worked in excess of eight (8) hours on the seventh consecutive day or work in a work
16 week. *Ibid.* Defendants violated California's overtime laws by, among other things,
17 failing to correctly calculate, or record at all, the total number of hours worked by Plaintiff
18 and other similarly situated aggrieved employees and not paying proper overtime rates for
19 any overtime worked. Plaintiff and the aggrieved employees were required to perform off-
20 the-clock work including but not limited to being interrupted during their meal periods
21 and asked to do work for which they were not compensated. They were not paid at the
22 proper overtime rate of pay as a result of Defendants failure to properly blend multiple
23 rates of pay and/or incorporate all non-discretionary pay renumerations into the regular
24 rate for purposes of calculating overtime and double time. Defendants owes Plaintiff and
25 aggrieved employees overtime wages for this work where the addition of such hours
26 would require payment at an overtime rate. Defendants' failure to provide compliant off-
27 duty, thirty-minute meal periods, and failure to pay a corresponding additional hour of
28 wages for meal premiums, to Plaintiff and other similarly aggrieved employees violates

1 Labor Code sections 510, and Wage Order 5-2001, section 3. These violations subject
2 Defendants to civil penalties under the Labor Code, including without limitation sections
3 558, 558.1, 510 and 2699, and section 20 of all applicable wage orders. Each violation of
4 each Labor Code section and Wage Order provision, for each aggrieved employee, results
5 in a separate civil penalty.

6 32. Labor Code section 1197 states the California requirement that employees must be paid at
7 least the minimum wage fixed by the Commission, and any payment of less than the
8 minimum wage is unlawful. The minimum wage standard applies to each hour employees
9 worked for which they were not paid. Therefore, an employer's failure to pay for any
10 particular hour worked by an employee is unlawful even if averaging an employee's total
11 pay over all hours worked, paid or not, results in an average hourly wage above minimum
12 wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Plaintiff and the
13 aggrieved employees were required by Defendants to perform some of her work "off-the-
14 clock." For example, Plaintiff was required to clock out for her meal breaks but continue
15 working to assist customers, particularly during peak times, during these breaks. This
16 practice resulted in Plaintiff being underpaid for her actual hours worked. These minimum
17 wage violations subject Plaintiff and the aggrieved employees to civil penalties under
18 Labor Code sections 558, 558.1, 1197.1 and Section 20 of all applicable wage orders.
19 Each violation of each Labor Code section and Wage Order provision results in a *separate*
20 civil penalty, for each aggrieved employee, for each pay period during which the
21 referenced statutes and Wage Order provisions were violated.

22 33. California law provides that, at the time of each payment of wages, the employer must
23 provide each employee with an itemized statement showing, inter alia, gross wages
24 earned, total hours worked, all deductions taken, net wages earned, the inclusive dates for
25 which the employee is being paid, the employee's name and last four digits of their social
26 security number, the name and address of the legal entity that it is the employer, and all
27 applicable hourly rates in effect during the pay period and all hours worked at each rate.
28 Defendants knowingly and intentionally failed to provide Plaintiff and other aggrieved

1 employees with proper, itemized wage statements as the wage statements provided by
2 Defendants do not accurately reflect, inter alia, gross wages earned, total hours worked,
3 net wages earned, and all applicable hourly rates in effect during each pay period and all
4 hours worked at each applicable hourly rate. This is a result of, inter alia, Defendants
5 failure to compensate Plaintiff and other similarly situated aggrieved employees for off-
6 the-clock work and failed to incorporate all non-discretionary renumerations into overtime
7 and reporting time pay.

8 34. Furthermore, with respect to the hours included in the pay period, Plaintiff and the
9 aggrieved employees' wage statements did not provide a separate category calculating the
10 total hours worked by Plaintiff. Rather, Plaintiff's and the aggrieved employees' paystubs
11 listed the number of hours worked at the regular rate of pay, and stated the number of
12 overtime hours under both the "OT Base Rate" and "OT Premium Rate" categories. For
13 example, one of Plaintiff's wage statements provided that she worked a total of 25.29
14 hours under "Regular" rate of pay for week 1 of the pay period, and 2.28 hours twice
15 under the "OT Base Rate" and "OT Premium Rate" rates of pay for week 1 of the pay
16 period. If an employee sought to calculate the total number of hours worked during a pay
17 period, they would have to add the hours listed under the "Regular" and "OT Base Rate"
18 and "OT Premium Rate" categories. However, if an employee were to add the hours
19 corresponding to all three of these categories, the total hours worked would be incorrect.
20 Next, corresponding to each of the three categories listed in the wage statements, the
21 regular rate of pay ("Regular") was the same as the "Overtime Base Rate" rate, and the
22 "Overtime Premium Rate" rate was half of the regular rate. (*Id.* at 26:25-27:4.) As such,
23 under this system, an employee would have to add the regular rate of pay to the one listed
24 under "Overtime Premium Rate" to determine that her or her overtime rate is a time and a
25 half the regular rate.

26 35. Defendants' wage statements also violate Labor Code section 226 by failing to provide the
27 accurate the name and address of the legal entity that is the employer. More specifically,
28 Defendants' wage statements list the employer as "P.F. Chang's" without including the

1 full legal entity names of the employer.

2 36. Accordingly, Defendants has violated Labor Code section 226 as to Plaintiff and all
3 similarly aggrieved employees. These violations subject Defendants to civil penalties
4 under the Labor Code, including without limitation Labor Code sections 226 and 2699.
5 Each violation of each Labor Code section and Wage Order provision, for each aggrieved
6 employee, results in a separate civil penalty.

7 37. California law requires employers to keep “accurate and complete” payroll records
8 showing, among other things, the hours worked daily by all non-exempt employees. IWC
9 Wage Order 5-2001, section 7, similarly requires employers to keep time records showing,
10 inter alia, when the employees begin and end each work period and reflecting the times
11 during which all owed meal periods are provided each day. At all relevant times,
12 Defendants has failed, and continues to fail, to keep the required accurate time records, as
13 Defendants did not keep records of the true hours worked by Plaintiff and similarly
14 aggrieved employees by virtue of Defendants’ policy and practices of requiring employees
15 to work off-the-clock. Defendants’ failure to keep “accurate and complete” payroll
16 records for Plaintiff and other similarly aggrieved employees violates Labor Code sections
17 1174, 1198-99, and Wage Order 5-2001, section 7. These violations subject Defendants to
18 civil penalties under the Labor Code, including without limitation sections 1174.5 and
19 2699. Each violation of each Labor Code section and Wage Order provision, for each
20 aggrieved employee, results in a separate civil penalty.

21 38. Together, Labor Code sections 1198 and 1199 make unlawful employment of any
22 individual under conditions of labor prohibited by the Wage Orders, and any violation,
23 refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor
24 Code, including sections 1174, 1197, and 1198, or other order or ruling of the IWC.
25 Defendants’ violations with respect to minimum wages and/or overtime wages, as alleged
26 herein, result in separate violations of Labor Code sections 1198 and 1199, and subject
27 Defendants to civil penalties under the Labor Code, including without limitation Labor
28 Code sections 1197.1 and 2699. Each violation of each Labor Code section and Wage

Order provision, for each aggrieved employee, results in a separate civil penalty.

39. California Labor Code section 204 requires an employer to pay employees all wages due and payable at least twice each calendar month. Defendants failed to comply with Labor Code section 204 by failing to timely pay twice during each calendar month all wages due and payable to Plaintiff and other similarly aggrieved employees. Defendants' violations of Labor Code section 204 subject Defendants to civil penalties, including but not limited to the penalties set forth in California Labor Code sections 210 and 2699. Each violation results in a separate civil penalty, for each aggrieved employee for each pay period during which the statutory provisions were violated.

40. The California Labor Code Section 1198 provides that employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not engaged in the active work duties that would not permit them to be seated. Defendants' failure, inter alia, to provide any seating for Plaintiff and similarly aggrieved employees constitutes violations of set the Labor Code and Wage Orders. Under Labor Code Section 1198, Plaintiff and the similarly situated aggrieved employees who no longer are employed with Defendants are entitled to recover the civil penalty is \$100 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation for the 12 months prior to filing a lawsuit, plus attorney's fees and cost.

41. California Labor Code Section 353 mandates that every employer shall keep accurate records of all gratuities received by it, whether received directly from the employee or indirectly by means of deductions from the wages of the employee or otherwise. Upon information and belief, Plaintiff alleges that Defendants failed to maintain accurate records of all gratuities it received for each and every aggrieved employee, including Plaintiff, in violation of this Section. These violations subject Defendants to civil penalties under the Labor Code, including without limitation sections 2699. Each violation results in a separate civil penalty, for each aggrieved employee for each pay period during which the statutory provisions were violated.

1 42. California Labor Code Section 221 provides that it shall be unlawful for any employer to
2 collect or receive from an employee any part of wages theretofore paid by said employer
3 to said employee. While Labor Code Section 224 provides some exceptions to this rule,
4 Section 224 also explicitly states that these exceptions do not apply to deductions from the
5 standard wage pursuant to a wage agreement or statute. As described above, Defendants
6 unlawfully made wage deductions from the portion of the gratuities paid to non-
7 managerial employees. Defendants also routinely deducted parking fees from her earned
8 wages on her biweekly payments. These violations subject Defendants to civil penalties
9 under the Labor Code, including without limitation sections 203 and 2699. Each violation
10 results in a separate civil penalty, for each aggrieved employee for each pay period during
11 which the statutory provisions were violated.

12 43. Labor Code section 201 requires employers to pay all wages earned and unpaid at the time
13 of discharge, immediately upon discharge. Labor Code section 202 states similar
14 provisions with respect to employees who resign. For all aggrieved employees no longer
15 employed by Defendants, Defendants still has not paid such aggrieved employees all
16 wages earned and unpaid at the time of discharge, in that upon information and belief,
17 Defendants maintains a policy of not providing former employees their final pay until the
18 current pay period or the following pay period. Defendants also has not paid Plaintiff and
19 the similarly situated aggrieved employees all wages earned and unpaid at the time of
20 discharge, in that, inter alia, Defendants did not compensate them for off-the-clock work,
21 failed to incorporate all non-discretionary remunerations into overtime and reporting time
22 pay, and unlawfully deducted wages owed. These violations subject Defendants to civil
23 penalties under the Labor Code, including without limitation Labor Code sections 203,
24 256 and 2699. Each violation results in a separate civil penalty, for each aggrieved
25 employee for each pay period during which the statutory provisions were violated.

26 44. Plaintiff complied with the procedures for bringing suit specified in Labor Code
27 sections 2699.3 and 2699.5. Plaintiff gave written notice to the California Labor and
28 Workforce Development Agency (“LWDA”) via its electronic portal located at the

1 web address <https://dir.tfaforms.net/266> on February 10, 2020, and via certified mail
2 to Defendants on the same date, of the specific provisions of the Labor Code and Wage
3 Orders allegedly violated, including the facts and theories to support the alleged
4 violations.

5 45. Under Labor Code section 2699.3, the LWDA must give written notice by certified
6 mail to the parties it intends to investigate the alleged violations within 65 days of the
7 date of the complainant's written notice. As of the date of this Complaint, the LWDA
8 has not provided the parties any notice of its intention to investigate Plaintiff's claims
9 on behalf of herself and other similarly aggrieved employees. As of the date of this
10 Complaint, Defendants has not responded to Plaintiff's PAGA notices in an attempt
11 to cure. Accordingly, Plaintiff has exhausted all administrative remedies required by
12 law.

13 PRAYER

14 WHEREFORE, Plaintiff prays for judgment against each Defendants, jointly and
15 severally, as follows:

- 16 1. For civil penalties according to proof;
 - 17 2. For reasonable attorney's fees and costs of suit; and
 - 18 3. For such other and further relief as the Court deems just and proper.
- 19

20
21 Dated: September 21, 2020

CROSNER LEGAL, P.C.

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23 _____
24 Zachary Crosner
25 Blake Jones
26 Michael Crosner
27 Attorneys for Plaintiff CINDY GALLOWAY
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DEMAND FOR JURY TRIAL

Plaintiff CINDY GALLOWAY demands a trial by jury on all claims so triable.

Dated: September 21, 2020

CROSNER LEGAL, P.C.



Zachary Crosner
Blake Jones
Michael Crosner
Attorneys for Plaintiff CINDY GALLOWAY