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individually and on behalf of others similarly situated

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

SOFIJA MARKOVIC, an individual

Plaintiff,

v.

BBG SD4 LLC d/b/a Raglan Public House, a
California Limited Liability Company; BBG
SD5 LLC d/b/a Dunedin New Zealand Eats, a
Delaware Limited Liability Company; BBG
SD3 LLC d/b/a Queenstown Public House, a
California Limited Liability Company; BBG
Cal, LLC d/b/a Bare Back Grill; a California
Limited Liability Company, and Arbor SD,
LLC d/b/a Queenstown Bistro, a California
Limited Liability Company; and DOES 1
through 100, Inclusive,

Defendants.

Case No.: 37-2020-00016435-CU-OE-CTL

CLASS ACTION

CLASS ACTION COMPLAINT FOR:

- 1. FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU OF;**
- 2. FAILURE TO PROVIDE PAID REST PERIODS OR COMPENSATION IN LIEU OF;**
- 3. FAILURE TO PAY OVERTIME WAGES;**
- 4. FAILURE TO PAY MINIMUM WAGES;**
- 5. FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENDITURES;**
- 6. VIOLATION OF LABOR CODE §1198;**
- 7. FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS;**
- 8. VIOLATION OF LABOR CODE §203;**
- 9. UNFAIR BUSINESS PRACTICES;**
- 10. PRIVATE ATTORNEYS GENERAL ACT**

DEMAND FOR JURY TRIAL

1 Plaintiff SOFIJA MARKOVIC (“Plaintiff” or “Ms. Markovic”), an individual on
2 behalf of herself and all others similarly situated, hereby files this First Amended Complaint
3 (“Complaint”) against Defendants BBG SD4 LLC d/b/a Raglan Public House, a California
4 Limited Liability Company; BBG SD5 LLC d/b/a Dunedin New Zealand Eats, a Delaware
5 Limited Liability Company; BBG SD3 LLC d/b/a Queenstown Public House, a California
6 Limited Liability Company; BBG Cal, LLC d/b/a Bare Back Grill; a California Limited
7 Liability Company, and Arbor SD, LLC d/b/a Queenstown Bistro, a California Limited
8 Liability Company; and DOES 1 through 100, Inclusive. Plaintiff is informed and believes,
9 and on the basis of that information and belief, alleges as follows:

10 **INTRODUCTION**

11 1. This is Class Action, pursuant to California Code of Civil Procedure §382 on
12 behalf of plaintiff and other current and former non-exempt, hourly employees employed by
13 BBG SD4 LLC d/b/a Raglan Public House, a California Limited Liability Company; BBG
14 SD5 LLC d/b/a Dunedin New Zealand Eats, a Delaware Limited Liability Company; BBG
15 SD3 LLC d/b/a Queenstown Public House, a California Limited Liability Company; BBG Cal,
16 LLC d/b/a Bare Back Grill; a California Limited Liability Company, and Arbor SD, LLC d/b/a
17 Queenstown Bistro, a California Limited Liability Company, and DOES 1 through 100,
18 Inclusive (collectively hereinafter referred to as “BBG” or “Defendants”). Defendants were
19 joint employers of Plaintiff and Restaurant Employees in that they were operating as a joint
20 enterprise and all Defendants suffered and permitted Plaintiff and Restaurant Employees to
21 work for each and all of them; controlled Plaintiff’s and Restaurant Employees’ hours and
22 working conditions; controlled Plaintiff’s and Restaurant Employees’ wages; and made the
23 decision to hire Plaintiff and Restaurant Employees and had control of Plaintiff’s and
24 Restaurant Employees’ employment and therefore jointly employed Plaintiff and Restaurant
25 Employees.

26 2. This is a civil action seeking recovery for Defendants’ violations of California
27 Labor Code (“Labor Code”) §1194, et seq., §1197, §200 et seq., Labor Code §500 et seq.,
28 Labor Code §226.7, 226, 203, California Business and Professions Code (“B&P”) §17000 et

1 seq. and §17200 , et seq., the applicable Wage Order(s) issued by the California Industrial
2 Welfare Commission (hereinafter, the “IWC Wage Order(s)”) and related common law
3 principles.

4 3. Plaintiff’s action seeks monetary damages, including full restitution from
5 Defendants as a result of Defendants' unlawful, fraudulent and/or unfair business practices.

6 4. The acts complained of herein occurred, occur and will occur, at least in part,
7 within the time period from April 6, 2016, up to and through the time of trial for this matter.
8 Pursuant to California Emergency Rule of Court 9, the statute of limitations for this matter was
9 tolled beginning on April 6, 2020.

10 **RELEVANT EMPLOYEES**

11 5. The relevant employees are Defendants’ current and former, non-exempt, hourly
12 employees, employed in California by Defendants, as “back of the house” and “front of the
13 house” Restaurant Employees, including, but not limited to, the titles of any “server”, “cooks”,
14 “food runner”, “busser”, “bus boy”, “waiter”, “waitress”, or other similarly situated titles
15 (hereinafter “Restaurant Employees” or “Class Members”)

16 6. Defendants’ Restaurant Employees are paid by Defendants on an hourly pay
17 basis.

18 7. The obligations and responsibilities of Defendants’ current and former non-
19 exempt, hourly-paid Restaurant Employees employed in California by Defendants are virtually
20 identical from employee to employee. Any differences in job activities between the different
21 individuals in these positions were and are legally insignificant to the issues presented by this
22 action.

23 **SUMMARY OF CLAIMS**

24 8. Meal and Rest Periods. Plaintiff and Restaurant Employees are not provided
25 with legally compliant meal periods and rest breaks. Restaurant Employees, including
26 Plaintiff, are not provided any training about statutory breaks under California law, are not
27 scheduled to take rest breaks, and in fact, rest breaks are not made available to them.
28 Defendants’ restaurant locations are allocated a set budget for labor in which the General

1 Manager assigned to the restaurant location is required to create a schedule. However, the
2 schedule generally did not allocate enough shifts to cover tables or designate a “breaker”,
3 which, coupled with how busy the restaurant locations were, resulted in meal and rest periods
4 not being made available to Plaintiff and other similarly situated Restaurant Employees.

5 9. California law requires that an employer provides an employee who works more
6 than five hours a meal break that is no less than 30 minutes in duration. 8 CCR 11050(11)(A).
7 Unless an employee is relieved of all duty during the 30-minute meal period, the meal period
8 is considered an on-duty meal period and counted as time worked. *Id.* However, an on-duty
9 meal period is permitted only when the nature of the work prevents an employee from being
10 relieved of all duty and the parties agree in writing to an on-the-job paid meal period. *Id.* If an
11 employer fails to provide an employee a lawful meal period, the employer must pay the
12 employee one hour of pay for each violation. 8 CCR 11050(11)(D). Additionally, California
13 law mandates that an employer must “authorize and permit” an employee to take a duty-free
14 rest period not less than 10 minutes in duration for every four hours of work. 8 CCR
15 11050(12)(A). Violation of the rest break provisions requires the employer pay the employee
16 one hour of pay for each workday a rest period was not provided. 8 CCR 11050(12)(B).
17 Lastly, in California, the employer is required to keep records of all hours worked. Labor
18 Code § 1174(d).

19 10. With respect to meal periods, Defendants engaged in an unlawful act of “shaving
20 time” by automatically deducting a 30-minute meal period from the hours worked by
21 Restaurant Employees, even though Defendants’ time records show that Restaurant
22 Employees worked more than six hours but at no time punched out to account for a statutorily
23 mandated meal period. For example, BBG’s Regional Manager (Darren Roach) had the
24 ability to adjust, edit, and manipulate the time records of the Restaurant Employees, including
25 Plaintiff’s and Restaurant Employees’ time punches, and insert a 30-minute unpaid meal
26 period when in fact the Restaurant Employees were never provided with a timely, 30-minute
27 or more, uninterrupted meal break in the first place. Said differently, managers and
28 supervisors would routinely access the “Aloha” timekeeping software to manipulate and adjust

1 the times recorded by Restaurant Employees for meal breaks in order to avoid and minimize
2 the practice of compensating Plaintiff and other similarly-situated Restaurant Employees with
3 one additional hour of pay to account for a meal and/or rest period violation. Indeed, in the
4 nearly two years of her employment with BBG, Plaintiff Markovic was never paid any meal
5 period premiums despite the high frequency of not being provided with a meal and/or rest
6 break.

7 11. BBG would also fail to provide legally compliant rest breaks to Plaintiff and
8 Restaurant Employees. With respect to rest breaks, Plaintiff and other similarly situated
9 Restaurant Employees are not provided any training about statutory breaks under California
10 law, are not scheduled to take rest breaks, and in fact, rest breaks are not made available to
11 them. Ms. Markovic and Restaurant Employees would not be able to take a rest break on most
12 shifts because of how busy the restaurant location is coupled with the fact that there are not
13 enough Restaurant Employees to cover other Restaurant Employees, like Ms. Markovic, who
14 should be on a legally-compliant rest break. At a minimum, “an employer must inform
15 employees in a meaningful or consistent way that they could take rest breaks, [and] the
16 definition of any such rest breaks.” Godfrey v. Oakland Port Services Corp., 230 Cal.App.4th
17 1267, 1286 (2014). Additionally, due to the press of work, Plaintiff and Defendants’ non-
18 exempt, hourly paid current and former employees simply recorded an idealized meal break
19 but in reality, continued to work in completing their tasks and assignments.

20 12. Accordingly, Plaintiff and Restaurant Employees regularly work more than five
21 (5) hours per day without receiving an adequate and timely off-duty meal period of at least
22 thirty (30) minutes during which they were relieved of all duties. Through the practice and
23 policy of recording an idealized meal break after the fact, and that time entry for that purported
24 break is in exact duration time and time again without the slightest deviation, appear to be
25 illusory in nature. In Brinker Restaurant Corp. v. Superior Court, 53 Cal. 4th 1004, 1040
26 (2012) the California Supreme Court cited with approval California case law requiring an
27 employer to affirmatively act to make a meal period available where the employees are
28 relieved of all duty. See Cicairos v. Summit Logistics, Inc., 133 Cal.App.4th 949, 962-963

(2006) (“[T]he defendant's obligation to provide the plaintiffs with an adequate meal period is not satisfied by assuming that the meal periods were taken, because employers have ‘an affirmative obligation to ensure that workers are actually relieved of all duty.’”; Brown v. Fed. Express Corp., 249 F.R.D. 580, 585 (C.D. Cal.2008) (“It is an employer's obligation to ensure that its employees are free from its control for thirty minutes.”); accord Dilts v. Penske Logistics, LLC, 267 F.R.D. 625, 638 (S.D.Cal. 2010). An illusory meal period, where the employer effectively prevents an employee from having an uninterrupted meal period, does not satisfy this requirement. Cicairos, 133 Cal.App.4th at 962-963; Brown, 249 F.R.D. at 585; Dilts, 267 F.R.D. at 638. Thus, purported meal breaks all uniform in nature without any deviation is illusory in nature and violative of California law.

13. Failure to Pay Minimum Wages & Designated Rates. Defendants’ implementation of a policy, procedure, and/or practice of deducting a half-hour of pay from Plaintiff and Restaurant Employees to account for a supposed meal break results in the widespread underpayment of wages. IWC Wage Order, number 5, which applied to Plaintiff’s and Restaurant Employees’ employment with Defendants, defines “hours worked” to mean “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.”

14. Labor Code section 1182.12 and IWC Wage Order, number 5, section 4 provide that on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, that on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour, that on and after January 1, 2017, the minimum wage for all industries shall be not less than ten dollars and fifty cents (\$10.50) per hour, and that on and after January 1, 2018, the minimum wage for all industries shall be not less than eleven dollars (\$11) per hour.

15. Labor Code section 1194(a) provides in relevant part: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage [] is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage [], including interest thereon, reasonable attorney’s fees, and costs of suit.”

1 16. Labor Code section 1194.2(a) provides in relevant part: “In any action under
2 Section 1193.6 or Section 1194 to recover wages because of the payment of a wage less than
3 the minimum wage fixed by an order of the commission, an employee shall be entitled to
4 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest
5 thereon.”

6 17. Labor Code section 1197 provides: “The minimum wage for employees fixed by
7 the commission is the minimum wage to be paid to employees, and the payment of a less wage
8 than the minimum so fixed is unlawful.”

9 18. Defendants’ Restaurant Employees, including Plaintiff, are paid on an hourly-
10 basis for their time spent working. Hours worked include, but are not limited to, all hours that
11 an employee is permitted or suffered to work including, but not limited to, off-the-clock work
12 that an employer either knew or should have known that an employee was performing.

13 19. As a matter of policy and/or practice, Defendants routinely suffered or permitted
14 their Restaurant Employees, including Plaintiff, to work portions of the day during which they
15 were subject to Defendants’ control, but Defendants failed to compensate them. As a matter of
16 policy and/or practice, Plaintiff and Restaurant Employees were frequently required to perform
17 work during their meal and rest breaks. The practice of “shaving time” to account for a
18 purported meal break resulted in the underpayment of all wages, including overtime.

19 20. Throughout the Relevant Time Period, Defendants did not maintain adequate
20 records of all wages earned, hours worked, and meal and rest breaks taken.

21 21. Defendants’ Failure to Pay Overtime Compensation. Labor Code Section 1194
22 provides that an employee receiving less than the legal overtime compensation is entitled to
23 recover in a civil action the unpaid balance of the full amount of this minimum wage or
24 overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of
25 suit.

26 22. Labor Code Section 510(a) states: “Any work in excess of eight hours in one
27 workday and any work in excess of 40 hours in any one workweek and the first eight hours
28 worked on the seventh day of work in any one workweek shall be compensated at the rate of

1 no less than one and one-half times the regular rate of pay for an employee.” Labor Code
2 Section 510(a) further states: “Any work in excess of 12 hours in one day shall be
3 compensated at the rate of no less than twice the regular rate of pay for an employee.” Labor
4 Code Section 510(a) further states: “[A]ny work in excess of eight hours on any seventh day of
5 a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an
6 employee.”

7 23. Throughout the Relevant Time Period, Wage Order No. 5-2001 provided for
8 payment of overtime wages equal to one and one-half (1 1/2) times an employee’s regular rate
9 of pay for all hours worked over eight (8) hours per day and/or forty (40) hours in a
10 workweek, and/or for payment of overtime wages equal to double the employee’s regular rate
11 of pay for all hours worked in excess of twelve (12) hours in any workday and/or for all hours
12 worked in excess of eight (8) hours on the seventh (7th) day of work in any one workweek.

13 24. Plaintiff was classified as non-exempt by Defendants and was therefore entitled
14 to overtime compensation for all hours worked in excess of the hours and time specified in the
15 Wage Order, statutes and regulations identified herein.

16 25. As a matter of policy and/or practice, Plaintiff and Restaurant Employees were
17 frequently required to perform work during their meal and rest breaks. The practice of
18 “shaving time” to account for a purported meal break resulted in the underpayment of all
19 wages, including overtime.

20 26. Accordingly, Defendants failed to properly record the actual hours worked by
21 Plaintiff and Restaurant Employees and thus failed to pay overtime wages for the actual
22 amount of overtime hours worked.

23 27. Failure to Reimburse Necessary Business Expenditures. Restaurant Employees,
24 including Ms. Markovic, were also required to purchase uniforms unique to BBG in order to
25 perform their work for Defendants. Specifically, Plaintiff bought pants and shirts directly
26 from Defendants for approximately \$80. These articles of clothing were required to be worn
27 by Plaintiff and Restaurant Employees when working at any of the BBG’s locations. These
28 items of clothing were not used by Class Members, including Plaintiff, outside of their work at

1 BBG.

2 28. California Labor Code Section 2802 requires employers to always reimburse
3 employees for all expenses or losses incurred in the direct consequence of the discharge of the
4 employee's work duties. The Department of Industrial Relations provides that "If an employer
5 requires that an employee wear a uniform, the employer must pay the cost of the uniform.
6 Labor Code Section 2802, Industrial Welfare Commission Orders, Section 9. The term
7 "uniform" includes wearing apparel and accessories of distinctive design and color."
8 (https://www.dir.ca.gov/dlse/FAQ_Deductions.htm)

9 29. Violations of Reporting Time Pay. Defendants also failed to pay reporting time
10 wages to Plaintiff and Restaurant Employees. The IWC Wage Order requires Defendants to
11 pay half of the employee's "usual or scheduled day's work," and in no event less than two (2)
12 hours pay on each instance the employer requires an employee to report to work.

13 (A) Each workday an employee is required to report for work and does report, but is not
14 put to work or is furnished less than half said employee's usual or scheduled day's work,
15 the employee shall be paid for half the usual or scheduled day's work, but in no event
16 for less than two (2) hours nor more than four (4) hours, at the employee's regular rate
17 of pay, which shall not be less than the minimum wage.

18 30. Plaintiff and Restaurant Employees frequently worked non-stop 10-hour shifts.
19 However, on days when they would report to work but were sent home or were informed in
20 route to the job site that work not available, they were not paid required reporting time wages.

21 **II. PARTIES**

22 **PLAINTIFF SOFIJA MARKOVIC**

23 31. Plaintiff SOFIJA MARKOVIC (hereinafter "Plaintiff") is an individual over the
24 age of eighteen (18) and is now and/or at all times mentioned in this Complaint was a resident
25 of California, county of San Diego.

26 32. Plaintiff commenced her employment with Defendants in or around October 28,
27 2017. Ms. Markovic predominantly worked at the Dunedin New Zealand Eats location but
28 occasionally also worked at BBG's Queenstown Public House location. Plaintiff separated

1 from her employment with Defendants on or around July 13, 2019. Throughout her tenure
2 with Defendants, Plaintiff worked as a Server and was classified as a non-exempt, hourly
3 employee with eligibility for overtime pay.

4 33. Plaintiff seeks unpaid wages, penalties and other compensation from Defendants
5 for the relevant time period because Defendants have (Plaintiff was harmed by):

- 6 a. Failed to pay all wages due including overtime wages for all hours worked;
- 7 b. Failed to pay the required minimum wage for all hours worked;
- 8 c. failed to provide meal periods
- 9 d. failed to provide paid rest periods;
- 10 e. failed to timely accurate itemized wage statements;
- 11 f. violated Labor Code §203; and
- 12 g. Conducted unfair business practices.

13 DEFENDANTS

14 34. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
15 mentioned, Defendants BBG SD4 LLC d/b/a Raglan Public House, BBG SD5 LLC d/b/a
16 Dunedin New Zealand Eats, BBG SD3 LLC d/b/a Queenstown Public House, BBG Cal, LLC
17 d/b/a Bare Back Grill, and Arbor SD LLC d/b/a Queenstown Bistro, were and are companies
18 duly organized, authorized, and licensed to do business in the State of California with its
19 primary place of business in San Diego County. Defendants BBG SD4 LLC d/b/a Raglan
20 Public House, BBG SD5 LLC d/b/a Dunedin New Zealand Eats, BBG SD3 LLC d/b/a
21 Queenstown Public House, BBG Cal, LLC d/b/a Bare Back Grill, and Arbor SD LLC d/b/a
22 Queenstown Bistro, and DOES 1 through 100 were joint employers of Plaintiff and Restaurant
23 Employees in that they were operating as a joint enterprise and that all Defendants suffered
24 and permitted Plaintiff and Restaurant Employees to work for each and both of them;
25 controlled Plaintiff's and Restaurant Employees' hours and working conditions; controlled
26 Plaintiff's and Restaurant Employees' wages; Defendants BBG SD4 LLC d/b/a Raglan Public
27 House, BBG SD5 LLC d/b/a Dunedin New Zealand Eats, BBG SD3 LLC d/b/a Queenstown
28 Public House, BBG Cal, LLC d/b/a Bare Back Grill, and Arbor SD LLC d/b/a Queenstown

1 Bistro, and DOES 1 through 100 made the decision to hire Plaintiff and similarly-situated
2 Restaurant Employees and had control of Plaintiff's and Restaurant Employees' employment
3 and therefore jointly employed Plaintiff and Restaurant Employees.

4 35. Plaintiff is further informed and believes, and based thereon alleges that, BBG
5 SD4 LLC d/b/a Raglan Public House, BBG SD5 LLC d/b/a Dunedin New Zealand Eats, BBG
6 SD3 LLC d/b/a Queenstown Public House, BBG Cal, LLC d/b/a Bare Back Grill, and Arbor
7 SD LLC d/b/a Queenstown Bistro, are companies conducting business in the State of
8 California as New Zealand themed and inspired full-service restaurants. This collection of
9 restaurants advertises themselves as being part of the "New Zealand Eats Group" or "NZ Eats
10 Group" operating and serving in or around the greater San Diego area. ([https://dnp-
11 sd.com/about-us/](https://dnp-sd.com/about-us/)) While all locations are registered as separate business entities, they are
12 nevertheless treated as a single enterprise by management. Restaurant Employees of one
13 restaurant entity are regularly sent to work in the facilities of another restaurant entity,
14 common management runs all of the entities, and corporate formalities are not observed
15 amongst the entities. These various entities therefore have such a unity of interest and
16 ownership that the separate personalities do not really exist and that the corporate structure is
17 just a shield of the alter ego of each other.

18 DOES 1 TO 100, INCLUSIVE

19 36. DOES 1 to 100, inclusive are not, and/or at all times mentioned in this
20 Complaint were doing business in the State of California.

21 37. Plaintiff does not know the true names or capacities, whether individual, partner
22 or corporate, of DOES 1 to 100, inclusive and for that reason, DOES 1 to 100 are sued under
23 such fictitious names pursuant to California Code of Civil Procedure ("CCP") §474.

24 38. Plaintiff will seek leave of court to amend this Complaint to allege such names
25 and capacities as soon as they are ascertained.

26 ///

27 ///

28 ///

1 ALL DEFENDANTS

2 39. Defendants, and each of them, are now and/or at all times mentioned in this
3 Complaint were in some manner legally responsible for the events, happenings and
4 circumstances alleged in this Complaint.

5 40. Defendants, and each of them, proximately subjected Plaintiff to the unlawful
6 practices, wrongs, complaint, injuries and/or damages alleged in the Complaint.

7 41. Defendants, and each of them, are now and/or at all times mentioned in this
8 Complaint were the agents, servants and/or employees of some or all other Defendants, and
9 vice versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all
10 times mentioned in this Complaint were acting within the course and scope of that agency,
11 servitude and/or employment.

12 42. Defendants, and each of them, are now and/or at all times mentioned in this
13 Complaint were members of and/or engaged in a joint venture, partnership and common
14 enterprise, and were acting within the course and scope of, and in pursuance of said joint
15 venture, partnership and common enterprise.

16 43. Defendants, and each of them, at all times mentioned in this Complaint
17 concurred and contributed to the various acts and omissions of each and every one of the other
18 Defendants in proximately causing complaint, injuries and/or damages alleged in this
19 Complaint.

20 44. Defendants, and each of them, at all times mentioned in this Complaint approved
21 of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged
22 in this Complaint.

23 45. Defendants, and each of them, at all times mentioned in this Complaint aided
24 and abetted the acts and omissions of each and every one of the other Defendants thereby
25 proximately causing the damages alleged in this Complaint.

26 JURISDICTION AND VENUE

27 46. The California Superior Court has jurisdiction in this matter due to Defendants'
28 violations of Labor Code §201 et seq, Labor Code §500 et seq., Labor Code §1194, Business

1 & Professions Code §17200 et seq., the IWC Wage Order(s) and related common law
2 principles.

3 47. The California Superior Court also has jurisdiction in this matter because both
4 the individual and aggregate monetary damages and restitution sought herein exceed the
5 minimal jurisdictional limits of the Superior Court and will be established at trial according to
6 proof.

7 48. The California Superior Court also has jurisdiction in this matter because at least
8 some of the transactions that are the subject matter of this Complaint occurred in the State of
9 California and/or each Defendant either is found, maintains offices, transacts business, and/or
10 has an agent in the State of California.

11 49. Venue is proper in San Diego County pursuant to CCP §395(a) and CCP §395.5
12 in that liability arose there because at least some of the transactions that are the subject matter
13 of this Complaint occurred therein and/or each Defendant either is found, maintains offices,
14 transacts business, and/or has an agent therein.

15 **EXHAUSTION OF ADMINISTRATION REMEDIES**

16 50. Plaintiff has complied with the procedures for bringing suit specified in
17 California Labor Code Section 2699.3. By letter dated March 30, 2020, Plaintiff, on behalf of
18 herself and the other aggrieved employees, gave written notice by certified mail to the Labor
19 and Workforce Development Agency (“LWDA”) and Defendants of the specific provisions of
20 the California Labor Code alleged to have been violated, including the facts and theories to
21 support the alleged violations.

22 51. More than sixty-five (65) calendar days have passed since Plaintiff provided the
23 LWDA with written notice. To date, Plaintiff has not received any written notice nor been
24 notified from the LWDA that it does intend to investigate the violations of the California
25 Labor Code alleged herein.

26 **CLASS ALLEGATIONS**

27 52. CCP §382 provides in pertinent part: “... [W]hen the question is one of a
28 common or general interest, of many persons, or when the parties are numerous, and it is

1 impracticable to bring them all before the court, one or more may sue or defend for the benefit
2 of all.

3 53. Plaintiff brings this suit as a class action pursuant to CCP § 382, on behalf of
4 individuals who are entitled to the monies unlawfully withheld by Defendants.

5 54. The putative classes Plaintiff will seek to certify are currently composed of and
6 defined as follows:

7 a. All of Defendants' California-based non-exempt, hourly paid current and former
8 Restaurant Employees, employed during the relevant time period (as defined, supra) to
9 whom Defendants failed to pay overtime wages (hereinafter, the "Overtime Class");

10 b. All of Defendants' California-based non-exempt, hourly-paid current and former
11 Restaurant Employees, employed during the relevant time period to whom Defendants
12 failed to pay the required minimum wage and/or overtime wage (hereinafter, the
13 "Minimum Wage/Overtime Class");

14 c. All of Defendants' California-based non-exempt, hourly paid current and former
15 Restaurant Employees, employed during the relevant time period (as defined, supra) to
16 whom Defendants failed to provide the legally requisite meal periods (hereinafter, the
17 "Meal Period Class");

18 d. All of Defendants' California-based non-exempt, hourly paid current and former
19 Restaurant Employees, employed during the relevant time period (as defined, supra) to
20 whom Defendants' failed to provide the legally requisite rest periods (hereinafter, the
21 "Rest Period Class");

22 e. All of Defendants' California-based non-exempt, hourly paid current and former
23 Restaurant Employees, employed during the relevant time period (as defined, supra) to
24 whom Defendants failed to provide accurate itemized wage statements (hereinafter, the
25 "Wage Statement Class");

26 f. All of Defendants' California-based non-exempt, hourly paid current and former
27 Restaurant Employees, employed during the relevant time period (as defined, supra) to
28 whom Defendants' willfully failed to pay and all wages (hereinafter, the "LC203

Class”).

g. All of Defendants’ California-based non-exempt, hourly paid current and former Restaurant Employees, employed during the relevant time period (as defined supra) to whom Defendants’ have engaged in unlawful, unfair and/or fraudulent business acts or practices prohibited by B & PC Section 17200 (hereinafter, the “17200 Class”).

h. All of Defendants’ California-based non-exempt, hourly paid current and former Restaurant Employees, employed during the relevant time period (as defined supra) to whom Defendants’ have failed to compensate Plaintiff and Restaurant Employees with the appropriate reporting time pay (hereinafter the “Reporting Time Pay Class”).

i. All of Defendants’ California-based non-exempt, hourly paid current and former Restaurant Employees, employed during the relevant time period (as defined supra) to whom Defendants have not tendered or furnished any reimbursement for necessary business expenditures incurred by Restaurant Employees, including Plaintiff (hereinafter the “2802 Class”).

55. The Overtime Class, Minimum Wage Class, Meal Period Class, Rest Period Class, Wage Statement Class, Reporting Time Pay Class, LC 203 Class, 17200 Class, and 2802 Class, are hereinafter collectively referred to as the “Classes.”

56. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or necessary to amend the definition of the Classes. In any event, Plaintiff will formally define and designate a class definition at such time when Plaintiff seeks to certify the Classes alleged herein.

57. Numerosity (CCP §382):

a. The potential quantity of members of the Classes as defined is so numerous that joinder of all members is unfeasible and impractical.

b. The disposition of the claims of the members of the Classes through this class action will benefit both the parties and this Court.

c. The quantity of members of the Classes is unknown to Plaintiff at this time; however, it is estimated that the membership of the Classes numbers greater than 100

1 individuals.

2 d. The quantity and identity of such members is readily ascertainable via inspection
3 of Defendants' records.

4 58. Superiority (CCP §382): The nature of this action and the nature of the laws
5 available to Plaintiff makes the use of the class action format particularly efficient and the
6 appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein, as follows:

7 a. California has a public policy which encourages the use of the class action
8 device;

9 b. By establishing a technique whereby the claims of many individuals can be
10 resolved at the same time, the class suit both eliminate the possibility of repetitious
11 litigation and provides small claimants with a method of obtaining redress for claims
12 which would otherwise may be too small to warrant individual litigation;

13 c. This case involves large corporate Defendants and a large number of individual
14 Class Members with many relatively small claims and common issues of law and fact;

15 d. If each individual member of the Classes was required to file an individual
16 lawsuit, the large corporate Defendants would necessarily gain an advantage because
17 Defendants would be able to exploit and overwhelm the limited resources of each
18 individual member of the Classes with Defendants superior financial and legal
19 resources;

20 e. Requiring each individual member of the Classes to pursue an individual remedy
21 would also discourage the assertion of lawful claims by the members of the Classes who
22 would be disinclined to pursue an action against Defendants because of an applicable
23 and justifiable fear of retaliation and permanent damage to their lives, careers and
24 wellbeing;

25 f. Proof of a common business practice or factual pattern, of which the members of
26 the Classes experienced, is representative of the Classes herein and will establish the
27 rights of each of the members of the Classes to recover on the causes of action alleged
28 herein;

- 1 g. Absent class treatment, the prosecution of separate actions by the individual
2 members of the Classes, even if possible, would likely create:
- 3 i) a substantial risk of each individual plaintiff presenting in separate,
4 duplicative proceedings the same or essentially similar arguments and
5 evidence, including expert testimony;
- 6 ii) a multiplicity of trial conducted at enormous expense to both the judicial
7 system and the litigants;
- 8 iii) inconsistent or varying verdicts or adjudications with respect to the
9 individual members of the Classes against Defendants; and
- 10 iv) potentially incompatible standards of conduct for Defendants;
- 11 v) potentially incompatible legal determinations with respect to individual
12 members of the Classes which would, as a practical matter, be dispositive
13 of the interest of the other members of the Classes who are not parties to
14 the adjudications or which would substantially impair or impede the
15 ability of the members of the Classes to protect their interests.
- 16 h. The claims of the individual members of the Classes are not sufficiently large to
17 warrant vigorous individual prosecution considering all of the concomitant costs
18 and expenses attendant thereto;
- 19 i. Courts seeking to preserve efficiency and other benefits of class actions
20 routinely fashion methods to manage any individual questions; and
- 21 j. The Supreme Court of California urges trial courts, which have an obligation to
22 consider the use of innovative procedural tools to certify a manageable class, to
23 be procedurally innovative in managing class actions.

24 59. Well-defined Community of Interest: Plaintiff also meets the established
25 standards for class certification (see, e.g., Lockheed Martin Corp. V. Superior Court (2003) 29
26 Cal. 4th 1096), as follows:

27 60. Typicality: The claims of Plaintiff SOFIJA MARKOVIC are typical of the
28 claims of all members of the Classes Plaintiff seeks to represent because all members of the

Classes sustained injuries and damages arising out of Defendants' common course of conduct in violation of law and the injuries and damages of all members of the Classes were caused by Defendants' wrongful conduct in violation of law, as alleged herein.

61. Adequacy: Plaintiff SOFIJA MARKOVIC:

- i) is an adequate representative of the Classes Plaintiff seeks to represent;
- ii) will fairly protect the interests of the members of the Classes;
- iii) has no interests antagonistic to the members of the Classes; and
- iv) will vigorously pursue this suit via attorneys who are competent, skilled and experienced in litigating matters of this type.

62. Common Questions of Law or Fact Predominate: There are common questions of law and/or fact as to the members of the Classes which predominate over questions affecting only individual members of the Classes, including with limitation:

- a. whether Defendants failed to pay the legal and appropriate overtime compensation to the members of the Overtime Class in violation of the Labor Code and the IWC Wage Order(s);
- b. whether Defendants failed to pay the legal and appropriate minimum wage to the members of the Minimum Wage Class in violation of the Labor Code and the IWC Wage Order(s);
- c. whether Defendants failed and continue to failed to provide meal periods to the members of the Meal Period Class in violation of the Labor Code and the IWC Wage Orders;
- d. whether Defendants failed and continue to fail to authorize and permit paid rest periods to the members of the Rest Period Class in violation of the Labor Code and section 12 of the IWC Wage Orders;
- e. whether Defendants failed to reimburse the 2802 Class for necessary business expenditures incurred by Restaurant Employees in violation of Labor Code §2802;
- f. whether Defendants failed to compensate Restaurant Employees with reporting time pay in violation of the Labor Code;

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g. whether Defendants failed to timely furnish accurate itemized statements to the members of the Wage Statement Class;

h. whether Defendants are liable pursuant to Labor Code §203;

i. whether Defendants conduct conducts unfair competition within the meaning of B & PC §17200 et seq.

j. whether Defendants' conduct constitutes unfair business practices within the meaning of B & PC §17200 et seq.;

k. whether the members of the Classes are entitled to compensatory damages, and if so, the means of measuring such damages;

- whether the members of the Classes are entitled to injunctive relief;

m. whether the members of the Classes are entitled to restitution; and

n. whether Defendants are liable for attorneys' fees and costs.

63. Whether each member of the Classes might be required to ultimately justify an individual claim does not preclude maintenance of a class action (see, e.g., Collins v. Rocha (1972) 7 Cal. 3d 232, 238).

CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(On Behalf of the Meal Period Class)

(Against All Defendants)

64. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

65. Labor Code §226.7(a) provides that “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

66. Labor Code §512 provides that “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal

1 period of not less than 30 minutes, except that if the total work period per day of the employee
2 is no more than six hours, the meal period may be waived by mutual consent of both the
3 employer and employee”.

4 67. Labor Code §512 further provides that “An employer may not employ an
5 employee for a work period of more than 10 hours per day without providing the employee
6 with a second meal period of not less than 30 minutes, except that if the total hours worked is
7 no more than 12 hours, the second meal period may be waived by mutual consent of the
8 employer and the employer only if the first meal period was not waived.”

9 68. Labor Code §516 provides that the Industrial Welfare Commission may adopt or
10 amend working condition orders with respect to meal periods for any workers in California
11 consistent with the health and welfare of those workers.

12 69. Section 11(A) of the IWC Wage Order(s) provides that “Unless the employee is
13 relieved of all duty during a 30 minutes meal period, the meal period shall be considered an
14 “on duty” meal period and counted as time worked. An “on duty” meal period shall be
15 permitted only when the nature of the work prevents an employee from being relieved of all
16 duty and when by written agreement between the parties an on-the-job paid meal period is
17 agreed to. The written agreement shall state that the employee may, in writing, revoke the
18 agreement at any time.”

19 70. Section 11(B) of the IWC Wage Orders(s) provides that “if an employer fails to
20 provide an employee a meal period in accordance with the applicable provision of this order,
21 the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
22 compensation for each workday that the meal period is not provided.”

23 71. The members of the Meal Period Class consistently worked over five (5) hours
24 per shift and therefore were entitled to a meal period of not less than thirty (30) minutes prior
25 to exceeding five (5) hours of employment.

26 72. Further, some members of the Meal Period Class consistently worked over ten
27 (10) hours per shift and therefore were entitled to a second meal period of not less than 30
28 minutes.

73. The members of the Meal Period Class did not validly or legally waive their meal periods, by mutual consent with Defendants or otherwise.

74. The members of the Meal Period Class did not enter into any written agreement with Defendants agreeing to an on-the-job paid meal period.

75. As a matter of Defendants' established company policy, Defendant failed to comply with the meal period requirements established by Labor Code §226.7, Labor Code §512, Labor Code §516 and Section 11 of the IWC Wage Order(s).

76. Pursuant to Section 11(B) of the IWC Wages Order(s) and Labor Code §226.7(b) which states “if an employer fails to provide an employee a meal or rest period in accordance with an applicable order of the industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period was not provided,” the member of the Meal Period Class are entitled to damages in an amount equal to one(1) additional hours of pay at each employee’s regular rate of compensation for each work day that the meal period was not provided.

77. Pursuant to Civil Code §3287, the members of the Meal Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

SECOND CAUSE OF ACTION

FAIUURE TO AUTHORIZE AND PERMIT PAID REST PERIODS

(On Behalf of the Rest Period Class)

(Against All Defendants)

78. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

79. Labor Code §226.7(a) states: “No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

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1 80. Labor Code §516 provides that the Industrial Welfare commission may adopt or
2 amend working conditions orders with respect to break periods for any workers in California
3 consistent with the health and welfare of those workers.

4 81. Section 12(A) of the IWC Wage Order(s) states: “Every employer shall
5 authorize and permit all employee to take rest periods, which insofar as practicable shall be in
6 the middle of each work period. The authorized rest period time shall be based on the total
7 hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
8 fraction thereof. However, a rest period need not be authorized for employees whose total
9 daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall
10 be counted as hours worked for which there shall be no deduction from wages.”

11 82. Section 12(B) of the IWC Wage Order(s) states: “If an employer fails to provide
12 an employee a rest period in accordance with the applicable provisions of this order, the
13 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
14 compensation for each workday that the rest period is not provided.”

15 83. The members of the Rest Period Class consistently worked over four (4) hours
16 per shift and therefore were entitled to a rest period of not less than ten (10) minutes prior to
17 exceeding four (4) hours of employment.

18 84. As a matter of Defendants’ established company policy, Defendants failed to
19 authorize and permit the required rest periods established by Labor Code § 226.7 and Labor
20 Code § 516 and Section 12 of the IWC Wage Order(s).

21 85. Pursuant to Section 12 of the IWC Wage Orders(s) and Labor Code § 226.7(b)
22 which states “if an employer fails to provide an employee a meal or rest period in accordance
23 with an applicable order of the Industrial Welfare Commission, the employer shall pay the
24 employee one additional hour of pay at the employee’s regular rate of compensation for each
25 work day that the meal or rest period is not provided,” the members of the Rest Period Class
26 are entitled to damages in an amount equal to one (1) additional hour of pay at each
27 employee’s regular rate of compensation for each work day that the rest period was not so
28 provided.

86. Pursuant to Labor Code § 218.6 and CC § 3287, the members of the Rest Period Class seek recovery of pre-judgment interest on all amounts recovered herein.

87. Pursuant to Labor Code the members of the Rest Period Class request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

THIRD CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(On Behalf of the Overtime Class)

(Against All Defendants)

88. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

89. Labor Code §204 establishes the fundamental right of all employees in the State of California to be paid wages, including straight time and overtime, in a timely fashion for their work.

90. Labor Code §510(a) states in pertinent part: “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

91. Labor Code §510 (a) further provides that “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”

92. Pursuant to Labor Code §1198, it is unlawful to employ person for longer than the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC Wage Order(s).

93. Defendants, as a matter of established company policy and procedure, at each and every one of the individual restaurant locations owned and/or operated by Defendants, consistently;

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1 a. Administered a uniform company policy and practice regarding the payment
2 of wage to the member of the Overtime Class by automatically deducting 30 minutes of time
3 to account for an alleged meal period when in fact no such compliant meal break was taken;

4 b. Scheduled to work and in fact required the members of the Overtime Class to
5 work in excess of eight (8) hours per workday and/or in excess of forty (40) hours per
6 workweek without paying overtime compensation for all such excess hours worked by
7 requiring the Overtime Class to remain under Defendant's control without paying them
8 therefore which resulted in;

9 c. Failure to pay members of the Overtime Class overtime compensation for
10 work in excess of eight (8) hours per day and/or forty (40) hours per week;

11 d. Failure to pay members of the Overtime Class overtime compensation for
12 work in excess of 12 hours per day;

13 e. Failure to pay members of the Overtime Class overtime compensation for the
14 first eight hours worked on the seventh day of work in any one workweek; and

15 f. Did not employ the members of the Overtime Class using: i) an alternative
16 workweek schedule pursuant to Labor Code §511; and did not employ the members of the
17 Overtime Class using ii) an alternative workweek schedule adopted pursuant to a collective
18 bargaining agreement.

19 94. Defendants' pattern, practice and uniform administration of corporate policy
20 regarding illegal employee compensation as described herein is unlawful and creates as
21 entitlement, pursuant to Labor Code §218 and §1194(a), to recovery by the members of the
22 Overtime Classes, in a civil action, for the unpaid balance of the full amount of the overtime
23 wages owing, including interest thereon, reasonable attorneys' fees, and costs of suit.

24 95. That calculation of individual damages for the members of the Wage Class may
25 at some point be required does not foreclose the possibility of taking common evidence on
26 questions regarding their entitlement to overtime compensation (see, e.g., Collins v. Rocha
27 (1972) 7 Cal. 3d 232; Hypolite v. Carleson (1975) 52 Cal. App. 3d 566; Employment
28 Development Dept. v. Superior Court (1981) 30 Cal. 3d 256.

96. Pursuant to Labor Code §1194(a) and Civil Code §3287, the members of the Overtime Class seek recovery of pre-judgment interest on all amounts recovered herein.

97. Pursuant to Labor Code §1194, the members of the Overtime Class request that the Court award reasonable attorneys * fees and costs incurred by them in this action.

FOURTH CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(On Behalf of the Minimum Wage Class)

(Against All Defendants)

98. Plaintiff incorporates by reference and reallege each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

99. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by the Labor Commission is unlawful.

100. California Code of Regulations Title 8, §11000(s) and the WC Wage Order, number 5, section 4 provide that on and after July 1, 2014, the minimum wage for all industries shall be not less than nine dollars (\$9) per hour, that on and after January 1, 2016, the minimum wage for all industries shall be not less than ten dollars (\$10) per hour, that on and after January 1, 2017, the minimum wage for all industries shall be not less than ten dollars and fifty cents (\$10.50) per hour, and that on and after January 1, 2018, the minimum wage for all industries shall be not less than eleven dollars (\$11) per hour.

101. Defendants, as a matter of established company policy and procedure, at each and every one of the individual restaurant locations owned and/or operated by Defendants which resulted in the members of the Minimum Wage Class earning less than the legal minimum wage in the State of California.

102. Defendants' pattern and practice in uniform administration of corporate policy regarding Defendants' failure to pay the legal minimum wage to the members of the Minimum Wage Class as described herein is unlawful and creates entitlement, pursuant to Labor Code §1194(a), to recovery by the members of the Minimum Wage Class, in a civil action, for the

1 unpaid balance of the full amount of the unpaid minimum wages owed, calculated as the
2 difference between the straight time compensation paid and the applicable minimum wage,
3 including interest thereon.

4 103. Pursuant to Labor Code §1194.2(a) (which provides that in any action under
5 Labor Code §1194, an employee shall be entitled to recover liquidated damages, the members
6 of the Minimum Wage Class seek recovery of liquidated damages on the straight-time portion
7 of uncompensated hours of work (not including the overtime portion thereof) in an amount
8 equal to the wages unlawfully unpaid and interest thereon.

9 104. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the
10 members of the Minimum Wage Class seek recover of pre-judgment interest on all amount
11 recovered herein.

12 105. Pursuant to Labor Code §1194(a), the members of the Minimum Wage Class
13 request that the Court award reasonable attorneys' fees and costs incurred by them in this
14 action.

15 **FIFTH CAUSE OF ACTION**

16 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

17 (On Behalf of the 2802 Class)

18 (Against All Defendants)

19 106. Plaintiff incorporates by reference and realleges each and every one of the
20 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully
21 set forth herein.

22 107. During the Class Period, Labor Code § 2802 applied to Defendants' employment
23 of Plaintiff and Restaurant Employees. At all relevant times, California Labor Code § 2802
24 required employers to indemnify employees for all expenses that the employees necessarily
25 expend as a direct result of the discharge of their employment duties or at the direction of the
26 employer.

27 108. During the Class Period, Plaintiff and Restaurant Employees were required to
28 purchase uniforms unique to Defendants in order to perform their work for the Company.

Specifically, Plaintiff bought pants and shirts directly from Defendants for approximately \$80. These articles of clothing were required to be worn by Plaintiff and Restaurant Employees when working at any of the BBG's locations. These items of clothing were not used by Class Members, including Plaintiff, outside of their work at BBG. Defendants failed to pay Plaintiff and Restaurant Employees for these expenditures.

109. During the Class Period, Defendants failed to pay Plaintiff and Restaurant Employees for all expenditures that employees necessarily expended as a result of their employment, and, therefore, violating California Labor Code Section 2802. Accordingly, Plaintiff and Restaurant Employees are entitled to recover all damages, penalties, and other remedies available for violation of California Labor Code Section 2802.

SIXTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 1198 - FAILURE TO PROVIDE REPORTING

TIME PAY

(On Behalf of Reporting Time Pay Class)

(Against all Defendants)

110. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

111. California Labor Code § 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code § 1198 further 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."

112. The applicable IWC wage order, California Code of Regulations, Title 8, section 11050(5)(A), provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's

regular rate of pay, which shall not be less than the minimum wage.”

113. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because Defendants failed to pay Plaintiff and class members reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day's work.

114. Defendants had a company-wide practice of sending Plaintiff and class members home early from their shifts, including before they had worked at least half of their regular shift, but would not pay Plaintiff and class members for half of their scheduled shift. For example, approximately once a month, Plaintiff would report to work, but would be sent home early by Defendants' management because it was slow. Although Plaintiff and class members would report to work based on the schedule that Defendants provided to them, Defendants would send them home before they had worked at least half of their scheduled shift(s) without giving them reporting time pay.

115. Accordingly, Plaintiff and Restaurant Employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

SEVENTH CAUSE OF ACTION

FAILURE TO TIMELY FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

(On Behalf of the Wage Statement Class)

(Against All Defendants)

116. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

117. Labor Code § 226(a) states in pertinent part: “Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee...(4) all

deductions...(5) net wages earned, (6) the inclusive dates of the period for which the employee is paid...(8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during each the pay period and the corresponding number of hours worked at each hourly rate by the employee...”.

118. Further, the IWC Wage Orders § 7(A) states in pertinent part: “(A) Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded...(5) Total hours worked in the payroll period and applicable rates of pay...”

119. Therefore, pursuant to Labor Code § 226(a) and the IWC Wage Orders § 7(A), California employers are required to maintain accurate records pertaining to the total hours worked for Defendants by the members of the Wage Statement Class, including but not limited to, beginning and ending of each work period, meal period and split shift interval, the total daily hours worked, total wages paid, and the total hours worked per pay period and applicable rates of pay,

120. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC Wage Orders § 7(A), Defendants did not and still do not furnish each of the members of the Wage Statement Class with an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) all deductions, (4) net wages earned and/or (5) all applicable hourly rates in effect during each respective pay period and the corresponding number of hours worked at each hourly rate by each respective individual.

121. As a pattern and practice, in violation of Labor Code § 226(a) and the IWC Wage Orders § 7(A), Defendants did not and do not maintain accurate records pertaining to the total hours worked for Defendants by the members of the Wage Statement Class, including but not limited to, beginning and ending of each work period, meal period and split shift interval, the total daily hours worked, and the total hours worked per pay period and applicable rates of pay.

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1 122. Plaintiff and the members of the Wage Statement Class have suffered injury as a
2 result of Defendants' failure to maintain accurate records for the member of the Wage
3 Statement Class have suffered injury as a result of Defendants' failure to maintain accurate
4 records for the members of the Wage Statement Class in that the members of the Wage
5 Statement Class were not timely provided written accurate itemized statements showing all
6 requisite information, including but not limited to total hours worked by the employee, gross
7 wages earned, net wages earned, all deductions, and all applicable hourly rates in effect during
8 the pay period and the corresponding numbers of hours worked at each hourly at each hourly
9 rate, in violation of Labor Code § 226 and the IWC Wage Orders § 5(A), such that the
10 members of the Wage Statement Class were misled by Defendants as to the correct
11 information regarding various items, including but not limited to total hours worked by the
12 employee, gross wages earned, net wages earned, all deductions, and all applicable hourly
13 rates in effect during the pay period and the corresponding number of hours worked at each
14 hourly rate.

15 123. Pursuant to Labor Code § 226(e), the members of the Wage Statement Class are
16 entitled to fifty dollars (\$50.00) per employer for the initial pay period in which a violation
17 hereunder occurs and one hundred dollars (\$100.00) per employer for each violation in a
18 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars
19 (\$4,000.00).

20 124. Pursuant to Labor Code § 226(g), the currently-employed members of the Wage
21 Statement Class are entitled to injunctive relief to ensure Defendants' compliance with Labor
22 Code § 226.

23 125. Pursuant to Labor Code § 226(e) and/or § 226(g), the members of the Wage
24 Statement Class are also entitled to an award of costs and reasonable attorneys' fees.

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EIGHTH CAUSE OF ACTION
VIOLATIONS OF LABOR CODE § 203

(On Behalf of the LC 203 Class Members)

(Against All Defendants)

126. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

127. Labor Code § 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code §§ 201 and 202 any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to thirty (30) days from the due date thereof, until paid or until action therefore is commenced.

128. The members of the LC 203 Class are no longer employed by Defendants as they were either discharged from or quit Defendants' employ.

129. Defendants had a consistent and uniform policy, practice and procedure of willfully failing to pay the earned wages of Defendants' former employees, according to amendment or proof.

130. Defendants willfully failed to pay the members of the LC 203 Class their entire wages due and owing at the time of their termination or within seventy-two (72) hours of their resignation, and failed to pay those sums for thirty (30) days thereafter.

131. Defendants' willful failure to pay wages to the members of the LC 203 Class violates Labor Code § 203 because Defendants knew or should have known wages were due to the members of the LC 203 Class, but Defendants failed to pay them.

132. Thus, the members of the LC 203 Class are entitled to recovery pursuant to Labor Code § 203, in the amount of each LC 203 Class members' daily wage multiplied by thirty (30) days.⁵

133. Pursuant to CC § 3287, the members of the LC 203 Class seek recovery of prejudgment interest on all amounts recovered herein.

NINTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES

(On Behalf of the 17200 Class)

(Against All Defendants)

134. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

135. B&PC § 17200 provides in pertinent part “[U]nfair competition shall mean and include any unlawful, unfair or fraudulent business act....”

136. B&PC § 17205 provides that unless otherwise expressly provided, the remedies or penalties provided for unfair competition “are cumulative to each other and to the remedies or penalties available under all other laws of this state.”

137. B&PC § 17204 provides that an action for any relief from unfair competition may be prosecuted by any person who has suffered injury in fact and has lost money or property as a result of such unfair competition.

138. Defendants have engaged in unlawful, unfair and fraudulent business acts or practices prohibited by B&PC § 17200, including those set forth in the preceding and foregoing paragraphs of the complaint, thereby depriving Plaintiff and all others similarly situated of the minimum working standards and conditions due to them under the Labor Code and/or the IWC Wage Orders, as specifically described herein.

139. Defendants have engaged in unfair business practices in California by practicing, employing and utilizing the employment practices outlined in the preceding paragraphs, specifically, by requiring employees to perform the labor services complained of herein without the requisite compensation.

140. Defendants’ use of such practices constitutes an unfair business practice, unfair competition and provides an unfair advantage over Defendants’ competitors.

141. Plaintiff has suffered injury in fact and has lost money or property as a result of such unfair competition.

142. Plaintiff seeks full restitution from Defendants, as necessary and according to proof, restore any and all monies withheld, acquired and/or converted by Defendants by means of the unfair practices complained of herein.

143. Further, if Defendants are not enjoined set forth, above, Defendants will continue to practice, employ and utilize the employment practices outlined in the preceding paragraphs.

144. Therefore, Plaintiff request that the Court issue a preliminary and permanent injunction prohibiting Defendants from engaging in the foregoing conduct.

145. Plaintiff seeks the appointment of a receiver, as necessary, to establish the total monetary relief sought from Defendants.

TENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(On Behalf of Plaintiff and All Other Aggrieved Employees)

(Against All Defendants)

146. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

147. Plaintiff is an aggrieved employee as defined in Labor Code § 2699 (a). Plaintiff brings this cause on behalf of herself and other current or former employees affected by the labor law violations alleged in this Complaint.

148. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer who violated Plaintiff's rights by violating relevant sections of the California Labor Code and are subject to civil penalties.

149. Defendants committed the following violations of the Labor Code against Plaintiff, and, on information and belief, against other current or former employees while they were employed by Defendants:

(a) Defendants violated Labor Code §§ 201-203 by failing to pay all wages due on the date of the employee's involuntary termination or within 72 hours of the employee's

1 voluntary termination.

2 (b) Defendants violated Labor Code § 204 by failing to pay all wages due at
3 least twice during each calendar month, in compliance with those provisions.

4 (c) Defendants violated Labor Code § 216 by, having the ability to pay,
5 willfully refusing to pay wages due and payable after demand has been made.

6 (d) Defendants violated Labor Code § 226 and 226.3 by failing to provide
7 accurate itemized wage statements.

8 (e) Defendants violated Labor Code § 1174 by failing to maintain payroll
9 records showing the daily hours worked.

10 (f) Defendants violated Labor Code §§ 204, 210, 221, 225.5, 510, 511, 558,
11 1194-1197.1, 1198, and the applicable IWC Wage Order by failing to pay minimum wages
12 when those wages came due as required by California law.

13 (g) Defendants violated Labor Code § 510, 511, 551, 552, 558, and 1194-
14 1197.1 and provisions of the applicable IWC Wage Order by failing to pay the legal minimum
15 wage and overtime premium pay.

16 (h) Defendants violated Labor Code §§ 226.7, 512, 551, 552, and 558 by
17 failing to provide meal and rest periods compliant with California law.

18 (i) Defendants violated Labor Code § 1199 by requiring or causing
19 aggrieved employees, including Plaintiff, to work for longer hours than those fixed, or under
20 conditions of labor prohibited by the applicable IWC Wage Order, by paying aggrieved
21 employees, including Plaintiff, a wage less than the minimum fixed by the applicable Wage
22 Order, or by violating or refusing or neglecting to comply with the provisions of Labor Code
23 Division 2, Part 4, Chapter 1 of the applicable IWC Wage Order.

24 (j) Defendants violated Labor Code § 1198 and provisions of the applicable
25 IWC Wage Order by failing to provide aggrieved employees, including Plaintiff, with
26 reporting time pay in accordance with California law.

27 (k) Defendants violated Labor Code § 2802 by failing to indemnify
28 aggrieved employees, including Plaintiff, for all necessary expenditures or losses incurred in

1 direct consequence of the discharge of their duties, or of their obedience to the directions of
2 Defendants.

3 150. As set forth above, Plaintiff provided written notice on or about March 30, 2020
4 by certified mail to the Labor and Workforce Development Agency and to Defendants of the
5 facts and theories regarding the violations of the Employment Laws and Regulations.

6 Attached as Exhibit "1" is a true and correct copy of the letter sent to the LWDA and
7 Defendants. More than sixty-five days has elapsed since Plaintiff's submission to the LWDA.
8 To date, the LWDA has not advised Plaintiff that it intends to take action on Plaintiff's notice.

9 151. Pursuant to California Labor Code § 2699, Plaintiff and the aggrieved employees
10 should be awarded twenty-five percent (25%) of all penalties due under California law, as well
11 as attorneys' fees and costs.

12 **PRAYER FOR RELIEF**

13 Wherefore, Plaintiff prays for judgment against Defendants as follows:

- 14 1. For an Order certifying the First through Ninth Causes of Action as a class
15 action;
- 16 2. For an Order appointing Plaintiff's counsel as Class Counsel;
- 17 3. For compensatory damages in an amount to be ascertained at trial;
- 18 4. For restitution in an amount to be ascertained at trial;
- 19 5. For all penalties allowed by law;
- 20 6. For prejudgment interest;
- 21 7. For reasonable attorneys' fees;
- 22 8. For costs of suit incurred herein;
- 23 9. For disgorgement of profits garnered as a result of Defendants' unlawful failure
24 to pay wages, including overtime wages, earned; and

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10. For such further relief as the Court may deem appropriate.

DATED: April 28, 2020

BOYAMIAN LAW, INC.
HARTOUNIAN LAW FIRM, P.C.

By: 
Michael H. Boyamian
Armand R. Kizirian
Alex Hartounian
Attorneys for Plaintiff SOFIJA MARKOVIC and
All Others Similarly Situated

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for all claims so triable.

DATED: April 28, 2020

BOYAMIAN LAW, INC.
HARTOUNIAN LAW FIRM, P.C.

By: 
Michael H. Boyamian
Armand R. Kizirian
Alex Hartounian
Attorneys for Plaintiff SOFIJA MARKOVIC and
All Others Similarly Situated

Exhibit “1”



BOYAMIAN LAW

March 30, 2020

Via Online Submission

Labor Workforce and Development Agency
Attention: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, California 94102

**Re: Notice of PAGA Claims Pursuant to Labor Code Section 2699.3
Sofija Markovic adv. BBG SD5, LLC, et al.**

Dear Labor and Workforce Development Agency and Employer:

My office represents Sofija Markovic (“Markovic” or “Claimant”) with respect to various wage and hour claims on behalf of herself and other similarly situated current and former non-exempt, hourly “back of the house” and “front of the house” Restaurant Employees, including, but not limited to, the titles of any “server”, “cooks”, “food runner”, “busser”, “bus boy”, “waiter”, “waitress”, or other similarly situated titles (hereinafter “Restaurant Employees” or “Aggrieved Employees”) of BBG SD4 LLC d/b/a Raglan Public House, BBG SD5 LLC d/b/a Dunedin New Zealand Eats, BBG SD3 LLC d/b/a Queenstown Public House, BBG Cal, LLC d/b/a Bare Back Grill, and Arbor SD, LLC d/b/a Queenstown Bistro (collectively “BBG” or the “Company”). The purpose of this letter is to satisfy the notice requirements of Labor Code Section 2699.3(a) against these entities as well as any others that are affiliated or under common control or ownership. Also, under separate cover and being sent out today, is a check made out to the Labor Workforce and Development Agency in the amount of seventy-five dollars (\$75.00) for the filing fee of this matter.¹

Below we set forth the facts and theories which we believe support our contention that BBG has violated and continues to violate various provisions of the California Labor Code including, but not limited to, failure to provide meal and rest breaks, failure to pay for all hours worked, and failure to reimburse for necessary business expenditures.

Facts & Theories About the Case

BBG SD4 LLC d/b/a Raglan Public House, BBG SD5 LLC d/b/a Dunedin New Zealand Eats, BBG SD3 LLC d/b/a Queenstown Public House, BBG Cal, LLC d/b/a Bare Back Grill, and Arbor SD LLC d/b/a Queenstown Bistro, are companies conducting business in the State of

¹ Sent Via First Class U.S. Mail to the following address: Department of Industrial Relations, Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA 94102.

California as New Zealand themed and inspired full-service restaurants. This collection of restaurants advertise themselves as being part of the “New Zealand Eats Group” or “NZ Eats Group” operating and serving in or around the greater San Diego area. (<https://dnp-sd.com/about-us/>) While all locations are registered as separate business entities, they are nevertheless treated as a single enterprise by management. Employees of one restaurant entity are regularly sent to work in the facilities of another restaurant entity, common management runs all of the entities, and corporate formalities are not observed amongst the entities. These various entities therefore have such a unity of interest and ownership that the separate personalities do not really exist and that the corporate structure is just a shield of the alter ego of each other.

Ms. Markovic commenced her employment with the Company in or around October 28, 2017. Ms. Markovic predominantly worked at the Dunedin New Zealand Eats location but occasionally also worked at BBG’s Queenstown Public House location. She separated from her employment with the Company in or around July 13, 2019. Throughout her tenure with BBG, Ms. Markovic worked as a Server and was classified as a non-exempt, hourly employee with eligibility for overtime pay.

(1) Meal and Rest Break Violations

Our investigation has revealed that Restaurant Employees, including Ms. Markovic, are not provided with legally compliant meal periods and rest breaks. With respect to rest breaks, Ms. Markovic and other similarly situated Restaurant Employees are not provided any training about statutory breaks under California law, are not scheduled to take rest breaks, and in fact, rest breaks are not made available to them. Our investigation has also revealed that the Company’s restaurant locations are allocated a set budget for labor in which the General Manager assigned to the restaurant location is required to create a schedule. However, the schedule generally did not allocate enough shifts to cover tables or designate a “breaker”, which, coupled with how busy the restaurant locations were, resulted in meal and rest periods not being made available to Ms. Markovic and other similarly situated Restaurant Employees.

California law requires that an employer provides an employee who works more than five hours a meal break that is no less than 30 minutes in duration. 8 CCR 11050(11)(A). Unless an employee is relieved of all duty during the 30-minute meal period, the meal period is considered an on-duty meal period and counted as time worked. *Id.* However, an on-duty meal period is permitted only when the nature of the work prevents an employee from being relieved of all duty and the parties agree in writing to an on-the-job paid meal period. *Id.* If an employer fails to provide an employee a lawful meal period, the employer must pay the employee one hour of pay for each violation. 8 CCR 11050(11)(D). Additionally, California law mandates that an employer must “authorize and permit” an employee to take a duty-free rest period not less than 10 minutes in duration for every four hours of work. 8 CCR 11050(12)(A). Violation of the rest break provisions requires the employer pay the employee one hour of pay for each workday a rest period was not provided. 8 CCR 11050(12)(B). Lastly, in California, the employer is required to keep records of all hours worked. Labor Code § 1174(d).

With respect to meal periods, the Company engaged in an unlawful act of “shaving time” by automatically deducting a 30-minute meal period from the hours worked by Restaurant Employees, even though the Company’s time records show that Restaurant Employees worked more than six hours but no time punched out to account for a statutorily mandated meal period. For example, BBG’s Regional Manager (Darren Roach) had the ability to adjust, edit, and manipulate the time records of the Restaurant Employees, including Ms. Markovic’s time punches, and insert a 30-minute unpaid meal period when in fact the Restaurant Employees were never provided with a timely, 30-minutes or more, uninterrupted meal break in the first place. Said differently, managers and supervisors would routinely access the Aloha timekeeping software to manipulate and adjust the times recorded by Restaurant Employees for meal breaks in order to avoid and minimize the practice of compensating Ms. Markovic and other similarly-situated Restaurant Employees with one additional hour of pay to account for a meal and/or rest period violation. Indeed, in the nearly two years of her employment with BBG, Ms. Markovic was never paid any meal period premiums despite the high frequency of not being provided with a meal and rest break.

BBG would also fail to provide legally compliant rest breaks to Aggrieved Employees, including Ms. Markovic. With respect to rest breaks, Ms. Markovic and other similarly situated Restaurant Employees are not provided any training about statutory breaks under California law, are not scheduled to take rest breaks, and in fact, rest breaks are not made available to them. Ms. Markovic and the other Aggrieved Employees would not be able to take a rest break on most shifts because of how busy the restaurant location is coupled with the fact that there are not enough Restaurant Employees to cover other Restaurant Employees, like Ms. Markovic, who should be on a legally-compliant rest break. At a minimum, “an employer must inform employees in a meaningful or consistent way that they could take rest breaks, [and] the definition of any such rest breaks.” *Godfrey v. Oakland Port Services Corp.*, 230 Cal.App.4th 1267, 1286 (2014).

(2) Violations of Reporting Time Pay

The Company also failed to pay reporting time wages to Restaurant Employees. The IWC Wage Order requires BBG to pay half of the employee's “usual or scheduled day's work,” and in no event less than two (2) hours pay on each instance the employer requires an employee to report to work.

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

Ms. Markovic and other aggrieved employees frequently worked non-stop 10-hour shifts. However, on days when they would report to work but were sent home or were informed

in route to the job site that work not available, they were not paid required reporting time wages. As a result of the above Labor Code Violations and failure to pay required wages and penalties to employees when due, the Company is liable for civil penalties under Cal. Labor Code § 2698 et seq. The Company is further liable under Cal. Labor Code § 226 for failing to furnish and maintain accurate wage statements.

(3) Failure to Reimburse for Necessary Expenditures

Restaurant Employees, including Ms. Markovic, were also required to purchase uniforms unique to BBG in order to perform their work for the Company. Specifically, Ms. Markovic bought pants and shirts directly from the Company for approximately \$80. These articles of clothing were required to be worn by Ms. Markovic when working at any of the BBG's locations. These items of clothing were not used by Ms. Markovic outside of her work at BBG.

California Labor Code Section 2802 requires employers to always reimburse employees for all expenses or losses incurred in the direct consequence of the discharge of the employee's work duties. The Department of Industrial Relations provides that "If an employer requires that an employee wear a uniform, the employer must pay the cost of the uniform. Labor Code Section 2802, Industrial Welfare Commission Orders, Section 9. The term "uniform" includes wearing apparel and accessories of distinctive design and color." (https://www.dir.ca.gov/dlse/FAQ_Deductions.htm)

(4) Other Claims

Because Ms. Markovic and other similarly situated employees were not fully compensated for all hours worked, were deprived of overtime compensation, BBG also failed to provide accurate wage statements in a violation of Labor Code Section 226, and failed to fully compensate former employees in a timely manner when their employment ended, in violation of Labor Code Section 201 et seq.

Accordingly, we believe that BBG has violated, and continues to violate, numerous provisions of California law, including, without limitation Labor Code Sections §§ 201, 202, 203, 204, 210, 216, 221, 225.5, 226, 226.3, 226.7, 510, 511, 512, 551, 552, 558, 1194-1197.1, 1198, 2802, and 2698, et seq., as well as the relevant IWC orders and regulations, and that Ms. Markovic and other similarly situated Restaurant Employees are entitled to all civil and statutory penalties allowed by law. Our investigation is continuing, and there may be more violations uncovered.

California Labor Code Section 2699.3(a) requires an aggrieved employee to inform the Agency before filing a civil action under the Private Attorneys General Act of 2004 ("PAGA"). Based on the foregoing facts, Ms. Markovic is asserting PAGA claims on behalf of herself and on behalf of all other Restaurant Employees employed by the BBG in its California restaurant

locations from March 30, 2019, to the present. Claimant seeks civil penalties under PAGA for the following Labor Code violations:

1. Violations of Labor Code sections 216, 1194, 225.5, 558 for failing to pay minimum and overtime wages due. Specifically, by automatically deducting thirty-minutes of paid time to cover up a meal break violation, BBG does not pay minimum and overtime wages to Claimant and other non-exempt, hourly employees for all hours worked, as required by Labor Code sections 216, 510, 511, 558, 1182.1-1182.3, 1194-1197.1 and 1198.
2. Violations of Labor Code section 558 for failing to pay wages due, including those for missed meal and rest periods as required by Labor Code sections 226.7, 512, 551-553. Specifically, with respect to meal breaks, BBG does not permit Claimant and other non-exempt, hourly employees to take an uninterrupted, off-duty, and/or full meal periods, and does not pay one additional hour of pay at their regular rate of compensation for each missed meal period. The Company also does not provide Claimant and other non-exempt, hourly employees with rest periods. Nor does it pay one additional hour of pay at their regular rate of compensation for each missed rest period.
3. Violations of Labor Code sections 226 and 226.3, requiring employers to provide specific information on employees' itemized wage statements, as the Company does not include all hours worked and wages earned on the wage statements of Claimant and other non-exempt, hourly employees.
4. Violations of Labor Code sections 204 and 210, based on the Company's failure to pay Claimant and similarly situated non-exempt, hourly employees on the regular pay day all owed wages, and the Company's failure to fully compensate former employees in a timely manner when their employment ended, in violation of Labor Code Section 201 et seq.

Accordingly, we believe the Company has violated, and continues to violate, numerous provisions of California law, including, without limitation Labor Code Sections §§ 201, 202, 203, 204, 210, 216, 221, 223, 225.5, 226, 226.3, 226.7, 510, 511, 512, 551, 552, 558, 1174, 1174.5, 1194-1197.1, 1198, 2802, and 2698, et seq., as well as the relevant IWC orders and regulations, and that Claimant and other similarly situated current and former non-exempt, hourly Restaurant Employees are entitled to all damages, restitution and statutory penalties allowed by law. Our investigation is continuing, and there may be more violations uncovered.

We respectfully request that the Labor Workforce Development Agency notify this office within sixty (60) days if it wishes to investigate this matter further or, in the alternative, notify us that you will not pursue an investigation so that we may pursue these penalties under the Private Attorney General Act of 2004. Should you have any questions or concerns or require additional information, please do not hesitate to contact the undersigned. If the Company wishes to resolve these claims without resorting to protracted litigation, please contact the undersigned forthwith to discuss this matter further.

Thank you for your immediate attention to this matter.

Sincerely,

BOYAMIAN LAW, INC.



Michael H. Boyamian

CC: BBG SD5 LLC (Dunedin New Zealand Eats) *(via certified mail)*
Attention: Frank Pabst *(Agent of Service of Process)*
934 23rd Street
San Diego, California 92102

BBG SD4, LLC (Raglan Public House) *(via certified mail)*
Attention: Frank Pabst *(Agent of Service of Process)*
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BBG SD3, LLC (Queenstown Public House) *(via certified mail)*
Attention: Eryka Dennis *(Agent of Service of Process)*
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BBG Cal, LLC (Bare Back Grill) *(via certified mail)*
Attention: Frank Pabst *(Agent of Service of Process)*
4025 Camino Del Rio South, Suite 300
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Arbor SD, LLC (Queenstown Bistro) *(via certified mail)*
Attention: Frank Pabst *(Agent for Service of Process)*
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