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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
11/04/2021
Clerk of the Court
BY: ERNALYN BURA
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

ALEXANDRA PELGRIFT, individually, on
behalf of other members of the general public
similarly situated, and on behalf of aggrieved
employees pursuant to the Private Attorneys
General Act of 2004 ("PAGA");

Plaintiffs,

v.

THE 21ST AMENDMENT BREWERY
CAFE, LLC; a California limited liability
company; and DOES 1 through 100, inclusive;

Defendants.

Case No.: CGC-20-585227

Assigned for All Purposes to:
Honorable Anne-Christine Massullo
Department 304

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of Labor Code §§ 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004); and

(9) Violation of California Business & Professions Code §§ 17200, *et seq.*

Complaint Filed: June 29, 2020

Trial Date: None Set

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff Alexandra Pelgrift (“Plaintiff”) individually, on behalf of other members of the general public similarly situated, and on behalf of herself and other current and former aggrieved employees pursuant to the Private Attorneys General Act (“PAGA”), alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to California Constitution, Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over all Defendants because, upon information and belief, each party has sufficient minimum contacts in California, or otherwise intentionally avails itself of California law so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, the named Defendants transact business, have agents, and/or maintain offices in this county, and the acts and omissions alleged herein took place in this county. The majority of the acts and omissions alleged herein relating to Plaintiff took place in the State of California. Defendants employed Plaintiff within the State of California, County of San Francisco.

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PARTIES

5. Plaintiff Alexandra Pelgrift is an individual residing in the State of California. Plaintiff was employed by Defendants within the statutory time period.

6. Plaintiff is informed and believes and thereon alleges that Defendant THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100, inclusive, ("Defendants") are licensed to do business and actually doing business in the State of California, including the County of San Francisco.

7. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of Defendants sued herein as DOES 1 through 100, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend the complaint when the true names and capacities are known. Plaintiff is informed and believes and thereon alleges that each of Defendants designated as a DOE was legally responsible in some way for the matters alleged herein and proximately caused Plaintiff and the other class members to be subject to the illegal employment practices, wrongs, injuries, and damages complained of herein.

8. At all times herein mentioned, Defendants, and each of them, were agents, partners, joint venturers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, representatives, servants, employees, successors, co-conspirators and assigns, and that all acts or omissions alleged herein were duly committed with ratification, knowledge, permission, encouragement, authorization and consent of each Defendant designated herein.

9. Plaintiff further alleges that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members so as to make each of said Defendants employers and employers liable under the statutory provisions set forth herein.

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CLASS ACTION ALLEGATIONS

10. Plaintiff brings this action on her own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under Code of Civil Procedure section 382.

11. The proposed class is defined as follows:

Any and all persons who have been employed by Defendants as non-exempt or hourly paid employees in California at any time from April 15, 2019 to the present.

12. Plaintiff reserves the right to establish subclasses as appropriate.

13. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than three hundred (300) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiff's claims are typical of all other class members' claims as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom she has a well-defined community of interest.

c. Adequacy: Plaintiff will fairly and adequately protect the interests of each class member, with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

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1 **d. Superiority:** A class action is superior to other available methods for the
2 fair and efficient adjudication of this litigation because individual joinder of all class members
3 is impractical.

4 **e. Public Policy Considerations:** Certification of this lawsuit as a class action
5 will advance public policy objectives. Employers of this great state violate employment and
6 labor laws every day. Current employees are often afraid to assert their rights out of fear of
7 direct or indirect retaliation. However, class actions provide the class members who are not
8 named in the complaint anonymity that allows for the vindication of their rights.

9 **14.** There are common questions of law and fact as to the class members that
10 predominate over questions affecting only individual members. The following common
11 questions of law or fact, among others, exist as to the members of the class:

12 **a.** Whether Defendants' failure to pay wages, without abatement or
13 reduction, in accordance with the California Labor Code, was willful;

14 **b.** Whether Defendants failed to pay their hourly-paid or non-exempt
15 employees within the State of California for all hours worked, missed meal periods and rest
16 breaks in violation of California law;

17 **c.** Whether Defendants required class members to work over eight (8) hours
18 per day and/or over forty (40) hours per week and failed to pay the legally required overtime
19 compensation to class members;

20 **d.** Whether Defendants properly calculated the regular rate for class
21 members to worked overtime and earned bonuses and/or incentive pay;

22 **e.** Whether Defendants deprived Plaintiff and other class members of meal
23 and/or rest periods or required Plaintiff and the other class members to work during meal and/or
24 rest periods without compensation;

25 **f.** Whether Defendants failed to pay minimum wages to Plaintiff and other
26 class members for all hours worked;

27 **g.** Whether Defendant maintained an illegal rounding policy;

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1 **h.** Whether Defendants failed to pay all wages due to Plaintiff and other class
2 members within the required time upon their discharge or resignation;

3 **i.** Whether Defendants failed to timely pay all wages due to Plaintiff and
4 other class members during their employment;

5 **j.** Whether Defendants complied with wage reporting as required by the
6 California Labor Code, including, inter alia, section 226;

7 **k.** Whether Defendants failed to reimburse Plaintiff and the other class
8 members for necessary business-related expenses and costs;

9 **l.** Whether Defendants' conduct was willful or reckless;

10 **m.** Whether Defendants engaged in unfair business practices in violation of
11 California Business & Professions Code section 17200, *et seq.*;

12 **n.** The appropriate amount of damages, restitution, and/or monetary penalties
13 resulting from Defendants' violation of California law; and

14 **o.** Whether Plaintiff and other class members are entitled to compensatory
15 damages pursuant to the California Labor Code.

16 **GENERAL ALLEGATIONS**

17 **15.** During the relevant time period set forth herein, Defendants employed Plaintiff
18 and other persons as hourly-paid or non-exempt employees within the State of California.

19 **16.** Defendants, jointly and severally, hired Plaintiff and other class members and
20 classified them as hourly-paid, non-exempt employees, and failed to compensate them for all
21 hours worked, and/or missed rest periods.

22 **17.** Defendants had the authority to hire and terminate Plaintiff and other class
23 members; to set work rules and conditions governing Plaintiff and the other class members'
24 employment; and to supervise their daily employment activities.

25 **18.** Defendants hired Plaintiff and other class members and classified them as non-
26 exempt employees, and failed to compensate them for all hours worked, missed meal periods
27 and/or rest breaks.

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1 **19.** Defendants exercised sufficient authority over the terms and conditions of
2 Plaintiff and other class members' employment for them to be joint employers of Plaintiff and
3 other class members.

4 **20.** Defendants directly hired and paid wages and benefits to Plaintiff and other
5 class members.

6 **21.** Defendants continue to employ hourly-paid or non-exempt employees within
7 the State of California.

8 **22.** Plaintiff and other class members worked over eight (8) hours in a day, and/or
9 forty (40) hours in a week during their employment with Defendants.

10 **23.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt
12 employees within the State of California. This scheme involved, inter alia, failing to pay
13 Plaintiff and other non-exempt employees for all hours worked, missed meal periods, and
14 missed rest breaks in violation of California law.

15 **24.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 knew or should have known that Plaintiff and other class members were entitled to receive
17 certain wages for overtime compensation and that Plaintiff and other class members were not
18 receiving wages for overtime compensation.

19 **25.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that it had a rounding policy that was neither fair nor neutral and
21 that Plaintiff and other class members were underpaid wages owed to them because of
22 Defendant's illegal rounding policy.

23 **26.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 failed to provide Plaintiff and other class members the required rest and meal periods during
25 the relevant time period as required under the Industrial Welfare Commission Wage Orders
26 and thus they are entitled to any and all applicable penalties.

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1 **27.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and other class members were entitled to receive all
3 timely and complete meal periods or payment of one additional hour of pay at Plaintiff's and
4 the other class members' regular rate of pay when a meal period was missed, late or
5 interrupted, and that Plaintiff and other class members did not receive all timely and proper
6 meal periods or payment of one additional hour of pay at their regular rate of pay when a meal
7 period was missed.

8 **28.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knew or should have known that Plaintiff and other class members were entitled to receive all
10 timely rest periods without interruption or payment of one additional hour of pay at Plaintiff
11 and the other class members' regular rate of pay when a rest period was missed, late or
12 interrupted, and they did not receive all rest periods or payment of one additional hour of pay
13 at Plaintiff' and the other class members' regular rate of pay when a rest period was missed.

14 **29.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that Plaintiff and other class members were entitled to receive at
16 least minimum wages for compensation and that they were not receiving at least minimum
17 wages for all hours worked.

18 **30.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 knew or should have known that Plaintiff and other class members were entitled to receive the
20 wages owed to them upon discharge or resignation, including overtime and minimum wages
21 and meal and rest period premiums, and that Plaintiff and other class members did not, in fact,
22 receive such wages owed to them at the time of their discharge or resignation.

23 **31.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knew or should have known that Plaintiff and other class members were entitled to receive
25 complete and accurate wage statements in accordance with California law, but, in fact, they did
26 not receive complete and accurate wage statements from Defendants. The deficiencies
27 included, inter alia, the failure to include the total number of hours worked by Plaintiff and
28 other class members.

1 **32.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and the other class members were entitled to
3 reimbursement for necessary business-related expenses.

4 **33.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
5 knew or should have known that Defendants had to keep complete and accurate payroll records
6 for Plaintiff and other class members in accordance with California law, but, in fact, did not
7 keep complete and accurate payroll records.

8 **34.** Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knew or should have known that they had a duty to compensate Plaintiff and other class
10 members pursuant to California law, and that Defendants had the financial ability to pay such
11 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
12 represented to Plaintiff and other class members that they were properly denied wages, all in
13 order to increase Defendants' profits.

14 **35.** As a pattern and practice, during the relevant time period set forth herein,
15 Defendants failed to pay overtime wages to Plaintiff and other class members for all hours
16 worked. Plaintiff and other class members were required to work more than eight (8) hours per
17 day and/or forty (40) hours per week without overtime compensation.

18 **36.** As a pattern and practice, during the relevant time period set forth herein,
19 Defendant consistently underpaid wages owed to Plaintiff and other class members due to its
20 illegal rounding policy.

21 **37.** As a pattern and practice, during the relevant time period set forth herein,
22 Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to
23 Plaintiff and other class members.

24 **38.** As a pattern and practice, during the relevant time period set forth herein,
25 Defendants failed to pay Plaintiff and other class members at least minimum wages for all
26 hours worked.

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1 **39.** As a pattern and practice, during the relevant time period set forth herein,
2 Defendants failed to pay Plaintiff and other class members the wages owed to them upon
3 discharge or resignation.

4 **40.** As a pattern and practice, during the relevant time period set forth herein,
5 Defendants failed to provide complete or accurate wage statements to Plaintiff and other class
6 members.

7 **41.** As a pattern and practice, during the relevant time period set forth herein,
8 Defendants failed to keep complete or accurate payroll records for Plaintiff and other class
9 members.

10 **42.** As a pattern and practice, during the relevant time period set forth herein,
11 Defendants failed to reimburse Plaintiff and the other class members for necessary business-
12 related expenses and costs.

13 **43.** As a pattern and practice, during the relevant time period set forth herein,
14 Defendants failed to properly compensate Plaintiff and other class members pursuant to
15 California law in order to increase Defendants' profits.

16 **44.** California Labor Code section 218 states that nothing in Article 1 of the Labor
17 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due
18 to him [or her] under this article."

19 **FIRST CAUSE OF ACTION**

20 **(Violation of California Labor Code §§ 510 and 1198)**

21 **(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)**

22 **45.** Plaintiff incorporates by reference the allegations contained in Paragraphs 1
23 through 44, and each and every part thereof with the same force and effect as though fully set
24 forth herein.

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1 **46.** California Labor Code section 1198 and the applicable Industrial Welfare
2 Commission (“IWC”) Wage Order provide that it is unlawful to employ persons without
3 compensating them at a rate of pay either time-and-one-half or two-times that person’s regular
4 rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

5 **47.** Specifically, the applicable IWC Wage Order provides that Defendants are and
6 were required to pay Plaintiff and other class members employed by Defendants, who work(ed)
7 more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of
8 time-and-one-half for all hours worked in excess of eight (8) hours in a day or more than forty
9 (40) hours in a workweek.

10 **48.** The applicable IWC Wage Order further provides that Defendants are and were
11 required to pay Plaintiff and other class members overtime compensation at a rate of two times
12 their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

13 **49.** California Labor Code section 510 codifies the right to overtime compensation at
14 one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a
15 day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of
16 work, and overtime compensation at twice the regular hourly rate for hours worked in excess of
17 twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

18 **50.** During the relevant time period set forth herein, Plaintiff and other class members
19 worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a week.

20 **51.** As a pattern and practice, during the relevant time period set forth herein,
21 Defendants intentionally and willfully failed to pay and/or properly calculate overtime wages
22 owed to Plaintiff and other class members.

23 **52.** As a pattern and practice, during the relevant time period set forth herein,
24 Defendant intentionally and willfully maintained a rounding policy that was neither fair nor
25 neutral that resulted in Plaintiff and other class members being underpaid wages owed.

26 **53.** Defendants’ pattern and practice of failing to pay Plaintiff and other class
27 members the unpaid balance of overtime compensation, as required by California laws, violates
28 the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

54. Pursuant to California Labor Code section 1194, Plaintiff and other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)

55. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 54, and each and every part thereof with the same force and effect as though fully set forth herein.

56. During the relevant time period set forth herein, the IWC Wage Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and other class members' employment by Defendants.

57. During the relevant time period set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

58. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

59. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause, or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

1 **60.** As a pattern and practice, during the relevant time period set forth herein, Plaintiff
2 and other class members who were scheduled to work for a period of time no longer than six (6)
3 hours, and who did not waive their legally mandated meal periods by mutual consent, were
4 required to work for periods longer than five (5) hours without an uninterrupted meal period of
5 not less than thirty (30) minutes and/or without a rest period.

6 **61.** As a pattern and practice, during the relevant time period set forth herein, Plaintiff
7 and other class members who were scheduled to work for a period of time no longer than twelve
8 (12) hours, and who did not waive their legally mandated meal periods by mutual consent, were
9 required to work for periods longer than ten (10) hours without an uninterrupted meal period of
10 not less than thirty (30) minutes and/or without a rest period.

11 **62.** As a pattern and practice, during the relevant time period set forth herein, Plaintiff
12 and other class members who were scheduled to work for a period of time in excess of six (6)
13 hours were required to work for periods longer than five (5) hours without an uninterrupted meal
14 period of not less than thirty (30) minutes and/or without a rest period.

15 **63.** As a pattern and practice, during the relevant time period set forth herein, Plaintiff
16 and other class members who were scheduled to work for a period of time in excess of twelve
17 (12) hours were required to work for periods longer than ten (10) hours without an uninterrupted
18 meal period of not less than thirty (30) minutes and/or without a rest period.

19 **64.** As a pattern and practice, during the relevant time period set forth herein,
20 Defendants intentionally and willfully required Plaintiff and other class members to work during
21 meal periods and failed to compensate Plaintiff and the other class members the full meal period
22 premium for work performed during meal periods.

23 **65.** As a pattern and practice, during the relevant time period set forth herein,
24 Defendants failed to pay Plaintiff and other class members the full meal period premium due
25 pursuant to California Labor Code section 226.7.

26 **66.** Defendants' conduct violates applicable IWC Wage Order and California Labor
27 Code sections 226.7 and 512(a).

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67. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)

68. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 67, and each and every part thereof with the same force and effect as though fully set forth herein.

69. During the relevant time period set forth herein, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other class members' employment by Defendants.

70. During the relevant time period set forth herein, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

71. During the relevant time period set forth herein, the applicable IWC Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

72. As a pattern and practice, during the relevant time period set forth herein, Defendants required Plaintiff and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

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1 **73.** As a pattern and practice, during the relevant time period set forth herein,
2 Defendants willfully required Plaintiff and the other class members to work during rest periods
3 and failed to pay Plaintiff and the other class members the full rest period premium for work
4 performed during rest periods.

5 **74.** As a pattern and practice, during the relevant time period set forth herein,
6 Defendants failed to pay Plaintiff and the other class members the full rest period premium due
7 pursuant to California Labor Code section 226.7

8 **75.** Defendants' conduct violates applicable IWC Wage Orders and California Labor
9 Code section 226.7.

10 **76.** Pursuant to the applicable IWC Wage Orders and California Labor Code section
11 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
12 additional hour of pay at the employees' regular hourly rate of compensation for each workday
13 that the rest period was not provided.

14 **FOURTH CAUSE OF ACTION**

15 **(Violation of California Labor Code §§ 1194, 1197.1, and 1197)**

16 **(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)**

17 **77.** Plaintiff incorporates by reference the allegations contained in paragraphs 1
18 through 76 and each and every part thereof with the same force and effect as though fully set
19 forth herein.

20 **78.** During the relevant time period set forth herein, California Labor Code sections
21 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of a
22 lesser wage than the minimum so fixed, is unlawful.

23 **79.** As a pattern and practice, during the relevant time period set forth herein,
24 Defendants failed to pay minimum wages to Plaintiff and other class members as required,
25 pursuant to California Labor Code sections 1194, 1197.1, and 1197.

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1 **80.** Defendants' failure to pay Plaintiff and other class members the minimum wage
2 as required violates California Labor Code sections 1194, 1197.1, and 1197. Pursuant to those
3 sections, Plaintiff and other class members are entitled to recover the unpaid balance of their
4 minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated
5 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

6 **81.** Pursuant to California Labor Code section 1197.1, Plaintiff and the other class
7 members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each
8 employee minimum wages, and \$250.00 for each subsequent failure to pay each employee
9 minimum wages.

10 **82.** Pursuant to California Labor Code section 1194.2, Plaintiff and other class
11 members are entitled to recover liquidated damages in an amount equal to the wages unlawfully
12 unpaid and interest thereon.

13 **FIFTH CAUSE OF ACTION**

14 **(Violation of California Labor Code §§ 201, 202, and 203)**

15 **(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)**

16 **83.** Plaintiff incorporates by reference the allegations contained in paragraphs 1
17 through 82, and each and every part thereof with the same force and effect as though fully set
18 forth herein.

19 **84.** During the relevant time period set forth herein, California Labor Code sections
20 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at
21 the time of discharge are due and payable immediately, and if an employee quits his or her
22 employment, his or her wages shall become due and payable not later than seventy-two (72)
23 hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
24 intention to quit, in which case the employee is entitled to his or her wages at the time of
25 quitting.

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1 **85.** As a pattern and practice, during the relevant time period set forth herein,
2 Defendants intentionally and willfully failed to pay Plaintiff and other class members who are no
3 longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours
4 of their leaving Defendants' employ.

5 **86.** Defendants' pattern and practice of failing to pay Plaintiff and other class
6 members who are no longer employed by Defendants their wages, earned and unpaid, within
7 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
8 Code sections 201 and 202.

9 **87.** California Labor Code section 203 provides that if an employer willfully fails to
10 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall
11 continue as a penalty from the due date thereof at the same rate until paid or until an action is
12 commenced; but the wages shall not continue for more than thirty (30) days.

13 **88.** Plaintiff and other class members are entitled to recover from Defendants the
14 statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum
15 pursuant to California Labor Code section 203.

16 **SIXTH CAUSE OF ACTION**

17 **(Violation of California Labor Code § 226(a))**

18 **(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)**

19 **89.** Plaintiff incorporates by reference the allegations contained in paragraphs 1
20 through 88, and each and every part thereof with the same force and effect as though fully set
21 forth herein.

22 **90.** During the relevant time period set forth herein, California Labor Code section
23 226(a) provides that every employer shall furnish each of his or her employees an accurate
24 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
25 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
26 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
27 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
28 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the

1 employee and his or her social security number, (8) the name and address of the legal entity that
2 is the employer, and (9) all applicable hourly rates in effect during the pay period and the
3 corresponding number of hours worked at each hourly rate by the employee. The deductions
4 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
5 showing the month, day, and year, and a copy of the statement or a record of the deductions shall
6 be kept on file by the employer for at least three years at the place of employment or at a central
7 location within the State of California.

8 **91.** As a pattern and practice, Defendants have intentionally and willfully failed to
9 provide Plaintiff and other class members with complete and accurate wage statements. The
10 deficiencies include but are not limited to: the failure to include the total number of hours
11 worked by Plaintiff and other class members.

12 **92.** As a result of Defendants' violation of California Labor Code section 226(a),
13 Plaintiff and other class members have suffered injury and damage to their statutorily protected
14 rights.

15 **93.** More specifically, Plaintiff and other class members have been injured by
16 Defendants' intentional and willful violation of California Labor Code section 226(a) because
17 they were denied both their legal right to receive, and their protected interest in receiving,
18 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

19 **94.** Plaintiff and other class members are entitled to recover from Defendants the
20 greater of their actual damages caused by Defendants' failure to comply with California Labor
21 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

22 **95.** Plaintiff and other class members are also entitled to injunctive relief to ensure
23 compliance with this section, pursuant to California Labor Code section 226(g).

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1 **SEVENTH CAUSE OF ACTION**

2 **(Violation of California Labor Code §§ 2800 and 2802)**

3 **(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)**

4 **96.** Plaintiff incorporates by reference the allegations contained in paragraphs 1
5 through 95, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 **97.** Pursuant to California Labor Code sections 2800 and 2802, an employer must
8 reimburse its employee for all necessary expenditures incurred by the employee in direct
9 consequence of the discharge of his or her job duties or in direct consequence of his or her
10 obedience to the directions of the employer.

11 **98.** Defendants have intentionally and willfully failed to reimburse Plaintiff and other
12 class members for all necessary business-related expenses and costs. Plaintiff and other class
13 members are entitled to recover from Defendants their business-related expenses and costs
14 incurred during the course and scope of their employment, plus interest accrued from the date on
15 which the employee incurred the necessary expenditures at the same rate as judgments in civil
16 actions in the State of California.

17 **EIGHTH CAUSE OF ACTION**

18 **(Violation of Labor Code §§ 2698, *et seq.* (“PAGA”))**

19 **(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)**

20 **99.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 98 as though
21 fully set forth herein.

22 **100.** PAGA expressly establishes that any provision of the California Labor Code which
23 provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments,
24 divisions, commissions, boards, agencies or employees for a violation of the California Labor
25 Code, may be recovered through a civil action brought by an aggrieved employee on behalf of
26 himself or herself, and other current or former employees.

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1 **101.** On April 15, 2020, Plaintiff Pelgrift provided written notice to the LWDA and
2 Defendants of the specific provisions of the Labor Code she contends were violated, and the
3 theories supporting her contentions. Attached hereto as **Exhibit 1** and incorporated by reference is
4 a copy of the written notice to the LWDA. Plaintiff believes that on or about June 19, 2020, the
5 sixty-five (65) day notice period expired as to all Defendants, and the LWDA did not take any
6 action to investigate or prosecute this matter. Therefore, Plaintiff has exhausted the statutory time
7 period to bring this action.

8 **102.** Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
9 employees” as defined by California Labor Code § 2699(c) in that they are all current or former
10 employees (whether hired directly or through staffing agencies or labor contractors) of Defendants
11 who worked for Defendants at any time during the period from April 15, 2019 to the present, and
12 one or more of the alleged violations was committed against them.

13 **Failure to Pay Minimum and Overtime Wages**

14 **103.** At all times relevant herein, Defendants were required to compensate their non-
15 exempt employees minimum wages for all hours worked and overtime wages for all hours worked
16 in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the mandate of
17 Labor Code §§ 510, 1194, 1197, and 1198.

18 **104.** As a policy and practice, Defendants failed to compensate Plaintiff and other
19 aggrieved current and former employees for all hours worked, resulting in a failure to pay all
20 minimum wages and overtime wages, where applicable.

21 **Failure to Provide Meal Periods and Rest Breaks**

22 **105.** In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants were
23 required to authorize and permit their non-exempt employees to take a 10-minute rest break for
24 every four (4) hours worked or major fraction thereof, and were further required to provide their
25 non-exempt employees with a 30-minute meal period for every five (5) hours worked.

26 **106.** As a policy and practice, Defendants failed to provide Plaintiff and other aggrieved
27 current and former employees with legally-mandated meal periods and rest breaks and failed to
28 pay proper compensation for this failure.

1 **Failure to Timely Pay Wages During Employment**

2 **107.** At all times relevant herein, Defendants were required to pay their employees
3 within a specified time period pursuant to the mandate of Labor Code § 204.

4 **108.** As a policy and practice, Defendants failed to pay Plaintiff and other aggrieved
5 current and former employees all wages due and owing them within the required time period.

6 **Failure to Timely Pay Wages Upon Termination**

7 **109.** At all times relevant herein, Defendants were required to pay their employees all
8 wages owed in a timely fashion at the end of employment pursuant to California Labor Code §§
9 201 to 204.

10 **110.** As a result of Defendants' Labor Code violations alleged above, Defendants failed
11 to pay Plaintiff and the other aggrieved former employees their final wages pursuant to Labor Code
12 §§ 201 to 204 and accordingly owe waiting time penalties pursuant to Labor Code § 203.

13 **Failure to Provide Complete and Accurate Wage Statements**

14 **111.** At all times relevant herein, Defendants were required to keep *accurate* records
15 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174.

16 **112.** As a result of Defendants' various Labor Code violations, Defendants failed to keep
17 accurate records regarding Plaintiff and other aggrieved current and former employees. For
18 example, Defendants failed in their affirmative obligation to keep accurate records regarding
19 Plaintiff's and other aggrieved current and former employees' gross wages earned, total hours
20 worked, all deductions, net wages earned, and all applicable hourly rates and the number of hours
21 worked at each hourly rate.

22 **Failure to Reimburse Business Expenses**

23 **113.** At all times relevant herein, Defendants were required to reimburse their employees
24 for any and all necessary expenditures or losses incurred by the employees in direct consequences
25 of the discharge or their duties pursuant to the mandate of Labor Code §§ 2800 and 2802.

26 **114.** As a policy and practice, Defendants failed to pay Plaintiff and other aggrieved
27 current and former employees all business expenses incurred and owing them within the required
28 time period.

Penalties

115. Pursuant to California Labor Code § 2699, Plaintiff, individually, and on behalf of other current and former aggrieved employees, requests and is entitled to recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs pursuant, including but not limited to:

116. Penalties under California Labor Code § 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

117. Penalties under California Code of Regulations Title 8 § 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

118. Penalties under California Labor Code § 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;

119. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

120. Any and all additional penalties as provided by the Labor Code and/or other statutes; and

121. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

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1 **NINTH CAUSE OF ACTION**

2 **(Violation of California Business & Professions Code §§ 17200, *et seq.*)**

3 **(Against THE 21ST AMENDMENT BREWERY CAFE, LLC and DOES 1 through 100)**

4 **122.** Plaintiff incorporates by reference the allegations contained in paragraphs 1
5 through 121, and each and every part thereof with the same force and effect as though fully set
6 forth herein.

7 **123.** Defendants' conduct, as alleged herein, has been, and continues to be unfair,
8 unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants'
9 competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public interest
10 within the meaning of Code of Civil Procedure section 1021.5.

11 **124.** Defendants' activities as alleged herein are violations of California law, and
12 constitute unlawful business acts and practices in violation of California Business & Professions
13 Code section 17200, *et seq.*

14 **125.** A violation of California Business & Professions Code section 17200, *et seq.* may
15 be predicated on the violation of any state or federal law. In this instant case, Defendants' pattern
16 and practice of requiring Plaintiff and other class members work overtime hours without paying
17 them proper compensation violate California Labor Code sections 510 and 1198. Additionally,
18 Defendants' pattern and practice of requiring Plaintiff and other class members, to work through
19 their meal and rest periods without paying them proper compensation violate California Labor
20 Code sections 226.7 and 512(a). Moreover, Defendants' pattern and practice of failing to timely
21 pay wages to Plaintiff and other class members violate California Labor Code sections 201 and
22 202. Defendants also violated California Labor Code sections 226(a), 1194, 1197, 2800 and
23 2802.

24 **126.** As a result of the herein described violations of California law, Defendants
25 unlawfully gained an unfair advantage over other businesses.

26 **127.** Plaintiff and other class members have been personally injured by Defendants'
27 unlawful business acts and practices as alleged herein, including but not necessarily limited to
28 the loss of money and/or property.

1 **128.** Pursuant to California Business & Professions Code section 17200, *et seq.*,
2 Plaintiff and other class members are entitled to restitution of the wages withheld and retained by
3 Defendants during a period that commences four years prior to the filing of this Complaint; an
4 award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other
5 applicable laws; and an award of costs.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff, individually, and on behalf of other members of the general public similarly
8 situated, requests a trial by jury.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually, on behalf of all other members of the general public
11 similarly situated, and as a representative of other current and former aggrieved employees
12 pursuant to the PAGA, prays for judgment as follows:

13 **Class Certification**

- 14 1. That this action be certified as a class action;
15 2. That Plaintiff be appointed as representative of the class;
16 3. That counsel for Plaintiff be appointed as class counsel; and
17 4. That Defendants provide to Class Counsel immediately the names and most
18 current contact information (address, e-mail, and telephone numbers) of all class members.

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

- 20 5. For general unpaid wages at overtime wage rates and such general and special
21 damages as may be appropriate;
22 6. For pre-judgment interest on any unpaid overtime compensation commencing
23 from the date such amounts were due;
24 7. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
25 California Labor Code section 1194; and
26 8. For such other and further relief as the court may deem just and proper.

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As to the Second Cause of Action

9. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

10. For all actual, consequential, and incidental losses and damages, according to proof;

11. For premium wages pursuant to California Labor Code section 226.7(b);

12. For pre-judgment interest on any unpaid wages from the date such amounts were due;

13. For reasonable attorneys' fees and costs of suit incurred herein; and

14. For such other and further relief as the court may deem just and proper.

As to the Third Cause of Action

15. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the other class members;

16. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

17. For all actual, consequential, and incidental losses and damages, according to proof;

18. For premium wages pursuant to California Labor Code section 226.7(b);

19. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

20. For such other and further relief as the court may deem just and proper.

As to the Fourth Cause of Action

21. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff and the other class members;

22. For general unpaid wages and such general and special damages as may be appropriate;

23. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

24. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

25. For liquidated damages pursuant to California Labor Code section 1194.2; and

26. For such other and further relief as the court may deem just and proper.

As to the Fifth Cause of Action

27. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of the other class members no longer employed by Defendants;

28. For all actual, consequential, and incidental losses and damages, according to proof;

29. For statutory wage penalties pursuant to California Labor Code section 203 for the other class members who have left Defendants' employ;

30. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

31. For such other and further relief as the court may deem just and proper.

As to the Sixth Cause of Action

32. That the Court declare, adjudge, and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and other class members, and willfully failed to provide accurate itemized wage statements thereto;

33. For actual, consequential, and incidental losses and damages, according to proof;

34. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(g); and

35. For such other and further relief as the court may deem just and proper.

As to the Seventh Cause of Action

36. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and other class members (but not all) for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

37. For actual, consequential, and incidental losses and damages, according to proof;

38. For the imposition of civil penalties and/or statutory penalties;

39. For punitive damages and/or exemplary damages according to proof at trial;

40. For reasonable attorneys' fees and costs of suit incurred herein; and

41. For such other and further relief as the court may deem just and proper.

As to the Eighth Cause of Action

42. Upon the Eighth Cause of Action, for civil penalties pursuant to statute as set forth in Labor Code § 2698 *et seq.*, for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

43. Upon the Cause of Action, for costs and attorneys' fees pursuant to Labor Code §§ 210, 218.5, 1194, and 2699, and any other applicable statute; and

44. For such other and further relief the court may deem just and proper.

As to the Ninth Cause of Action

45. That the Court declare, adjudge, and decree that Defendants violated California Business and Professions Code sections 17200, *et seq.* by failing to pay at least minimum wages to Plaintiff and other class members all compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to reimburse Plaintiff and other class members for business expenses, and failing to pay Plaintiff's and other class members' wages timely as required by California Labor Code sections 201 and 202.

46. For restitution of unpaid wages to Plaintiff and other class members and all pre-judgment interest from the day such amounts were due and payable;

1 47. For the appointment of a receiver to receive, manage and distribute any and all
2 funds disgorged from Defendants and determined to have been wrongfully acquired by
3 Defendants as a result of violation of California Business and Professions Code sections 17200,
4 *et seq.*;

5 48. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
6 California Code of Civil Procedure section 1021.5;

7 49. For injunctive relief to ensure compliance with this section, pursuant to California
8 Business and Professions Code sections 17200, *et seq.*; and

9 50. For such other and further relief as the court may deem just and proper.
10

11 Dated: November 4, 2021

JUSTICE LAW CORPORATION

12
13 By: 
14 Douglas Han
15 Shunt Tatavos-Gharajeh
16 Haig Hogdanian
17 *Attorneys for Plaintiff*
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EXHIBIT 1

April 15, 2020

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov
State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

Re: THE 21ST AMENDMENT BREWERY CAFÉ, LLC

Dear Representative:

We have been retained to represent Alexandra Pelgrift against The 21st Amendment Brewery Café, LLC (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "21ST AMENDMENT").

Ms. Pelgrift is pursuing her California Labor Code sections 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Ms. Pelgrift may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

The 21st Amendment Brewery Café, LLC is a California limited liability company headquartered at 2010 Williams Street, San Leandro, California 94577.

21ST AMENDMENT employed Ms. Pelgrift as an hourly-paid non-exempt Hostess within one year of the date of this letter (from in or about November 2018 to 2019) in the State of California. 21ST AMENDMENT directly controlled the wages, hours and working conditions of Ms. Pelgrift's employment.

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¹ Ms. Pelgrift does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Ms. Pelgrift will amend this notice when the true names and capacities are known. Ms. Pelgrift is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Ms. Pelgrift and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

The “aggrieved employees” that Ms. Pelgrift may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies or labor contractors) of 21ST AMENDMENT within the State of California.

21ST AMENDMENT failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Ms. Pelgrift has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at 21ST AMENDMENT, regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

21ST AMENDMENT has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Ms. Pelgrift and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. 21ST AMENDMENT failed to compensate aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift and during meal breaks. Therefore, Ms. Pelgrift and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, 21ST AMENDMENT routinely required Ms. Pelgrift and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with 21ST AMENDMENT policies and expectations. Further, 21ST AMENDMENT failed to authorize and permit aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, 21ST AMENDMENT failed to compensate Ms. Pelgrift and other aggrieved employees all the premium wages they were owed.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, 21ST AMENDMENT failed to pay Ms. Pelgrift and other aggrieved employees all wages, including for uncompensated off-the-clock work and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, 21ST AMENDMENT failed to pay Ms. Pelgrift and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, 21ST AMENDMENT did not provide Ms. Pelgrift and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from 21ST AMENDMENT were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Ms. Pelgrift and other aggrieved employees, (2) total hours worked by Ms. Pelgrift and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Ms. Pelgrift and other aggrieved employees (4) all deductions for Ms. Pelgrift and other aggrieved employees, (5) net wages earned by Ms. Pelgrift and other aggrieved employees, (6) the inclusive dates of the period for which Ms. Pelgrift and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Ms. Pelgrift and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Ms. Pelgrift and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, 21ST AMENDMENT failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Ms. Pelgrift and other aggrieved employees.

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California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, 21ST AMENDMENT did not provide Ms. Pelgrift and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by 21ST AMENDMENT.

We believe that Ms. Pelgrift and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Ms. Pelgrift will seek these penalties and wages on her own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of 21ST AMENDMENT within one year of the date of this letter, as allowed by law.

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LWDA
April 15, 2020
Page 6 of 6

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read 'D. Han', with a stylized flourish at the end.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only)

Nicolas E. Freccia
c/o The 21st Amendment Brewery Café, LLC
2010 Williams Street
San Leandro, California 94577
Agent for Service of Process for The 21st Amendment Brewery Café, LLC

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is mking@justicelawcorp.com

On November 24, 2021, I served the foregoing document described as

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

for the following case: **Pelgrift v. The 21st Amendment Brewery Cafe, LLC**
LWDA/Court Case No.: **LWDA Case No.: CM-783168-20**
Court Case No.: CGC-20-585227
San Francisco County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 24, 2021, at Pasadena, California.


Madeline King