

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Barbara Scheper

Kevin Mahoney, Esq. (SBN: 235367)

kmahoney@mahoney-law.net

Edward Kim (SBN: 183022)

ekim@mahoney-law.net

MAHONEY LAW GROUP, APC

249 E. Ocean Boulevard, Suite 814

Long Beach, CA 90802

Telephone No.: 562-590-5550

Facsimile No.: 562-590-8400

Attorneys for Plaintiff RAFAEL MONDRAGON, as a representative of the State of California
and Labor and Workforce Development Agency,

COUNTY OF LOS ANGELES – CENTRAL DISTRICT

STANLEY MOSK COURTHOUSE

RAFAEL MONDRAGON,

Plaintiff,

v.

LET'S DO LUNCH; and DOES 1
through 50, inclusive,

Defendant.

Case No.: **20STCV29076**

COMPLAINT FOR DAMAGES

1. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Keep Accurate Payroll Records and Provide Accurate Itemized Wage Statements;
5. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Pay Wages Due Upon Termination of Employment; and
6. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Indemnify for Expenditures or Losses in Discharge of Duties.

1 Plaintiff RAFAEL MONDRAGON (“Plaintiff” or “Mr. Mondragon”) complains and
2 alleges as follows:

3 **INTRODUCTION**

4 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
5 who were subjected to one or more of the violations alleged herein (“Aggrieved Employees”) by
6 Defendant LET’S DO LUNCH (“Defendant”). The term “Relevant Time Period” or “Time
7 Period” is defined as one (1) year plus sixty-five (65) days prior to the filing of the complaint.
8 Plaintiff reserves the right to amend this complaint to reflect a different “Time Period” as further
9 discovery is conducted.

10 2. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief
11 against Defendant for its: (1) failure to pay all wages due, including regular and overtime wages;
12 (2) failure to provide meal periods or premium compensation in lieu thereof; (3) failure to provide
13 rest periods or premium compensation in lieu thereof; (4) failure to keep accurate payroll records
14 and provide accurate itemized wage statements; (5) failure to pay wages due upon termination of
15 employment; and (6) failure to indemnify for expenditures or losses in discharge of duties.

16 3. At all relevant times herein, Defendant has consistently maintained and enforced
17 the following unlawful policies and practices against Plaintiff:

18 (a) Willfully refusing to pay all hours worked, including both regular
19 and overtime wages;

20 (b) Willfully refusing to permit off-duty meal periods or providing
21 compensation in lieu thereof;

22 (c) Willfully refusing to permit rest periods or providing compensation
23 in lieu thereof;

24 (d) Willfully refusing to furnish accurate itemized wage statements
25 upon payment of wages;

26 (e) Willfully refusing to pay all wages due upon separation of
27 employment; and

28 (f) Willfully refusing to pay for expenditures or losses in the discharge

1 of their duties.

2 **JURISDICTION AND VENUE**

3 4. This Court has subject matter jurisdiction over the causes of action alleged in this
4 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
5 excluded from exercising subject matter jurisdiction over said causes of action.

6 5. Venue is proper in the County of Los Angeles, because the Defendant maintains
7 their location and transact business in this county, the obligations and liability arise in this county,
8 and work performed by Plaintiff and Aggrieved Employees that form the subject of this action
9 occurred in this county.

10 6. The California Superior Court has jurisdiction in the matter, because of the
11 individual claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold
12 for Federal Court and this action seeks recovery of civil penalties. Plaintiff is a resident of and/or
13 domiciled in the State of California. Defendant is a corporation doing business in the State of
14 California.

15 7. Further, there is no federal question at issue as the issues herein are based solely on
16 California statutes and law, including the Labor Code, Code of Civil Procedure, Business and
17 Professions Code, and Rules of Court.

18 **THE PARTIES**

19 **Plaintiff**

20 8. Plaintiff began his employment with Defendant in or around November 2018, as
21 a driver. Throughout the relevant time period, Plaintiff worked at approximately two locations
22 for Defendant within the County of Los Angeles during his employment. Plaintiff was always
23 paid an hourly wage and was deemed a non-exempt hourly employee by Defendant. Plaintiff is
24 accordingly entitled to compensation for all hours worked, overtime compensation, premium pay,
25 business expense reimbursements, and penalties from Defendant.

26 **Defendant**

27 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant is a
28 California corporation which maintains its principal office in Gardena, Los Angeles county,

1 California, and is and/or was the employer of Plaintiff and similarly situated employees during
2 the Relevant Time Period. Plaintiff is informed and believes, Defendant provides food services
3 throughout Los Angeles County, State of California.

4 10. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
5 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,
6 inclusive, but on information and belief alleges that said Defendants are legally responsible for
7 the violations alleged herein. Plaintiff will amend this complaint to allege the true names and
8 capacities of the DOE Defendants when ascertained.

9 11. Plaintiff is informed believes, and thereon alleges, that each Defendant acted in all
10 respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
11 business plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally
12 attributable to the other Defendant. Furthermore, Defendants operate as a joint venture and/or
13 single business enterprise, integrated enterprise and/or are agents of one another, are alter egos,
14 joint employers and conspire with one another to increase profits by engaging in the conduct
15 described in this complaint.

16 12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
17 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
18 managing agent, and/or principal of the co-Defendant, and in performing the actions mentioned
19 below was acting, at least in part, within the course and scope of that authority as such agent,
20 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
21 the permission and consent of the co-Defendant. Plaintiff also alleges the acts of each Defendant
22 are legally attributable to the other Defendant.

23 **PAGA ADMINISTRATIVE PREREQUISITE**

24 13. This complaint, Plaintiff brings this case as a representative action seeking
25 penalties for the State of California in a representative capacity, as provided by the Private
26 Attorney General Act, Labor Code section 2698 et seq. ("PAGA"), as an aggrieved employee was
27 employed by Defendant and did not receive all wages due, was not paid regular wage, was not
28 paid overtime, was not provided accurate wage statements, was not reimbursed for necessary

1 expenditures, and was not able to take lawful meal and rest breaks or receive premium
2 compensation in lieu thereof.

3 14. Prior to filing this complaint, on April 2, 2020, Plaintiff gave written notice by
4 certified electronic mail to the Labor and Workforce Development Agency ("LWDA") and to
5 Defendant of the specified provisions alleged to have been violated, including the facts and
6 theories to support the alleged violation as required by Labor Code section 2699.3. A true and
7 correct copy of Plaintiff's original letter sent to the LWDA on April 2, 2020, is attached hereto as
8 Exhibit A.

9 15. More than sixty-five (65) days have passed since Plaintiff submitted his April 2,
10 2020 notice to the LWDA and Defendant of the specific alleged Labor Code violations and the
11 LWDA have not provided notice to Plaintiff of its intent to investigate such alleged violations.
12 Plaintiff further has received no notice of Defendant's intent to cure any of the alleged violations.
13 Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action with regard
14 to his April 2, 2020, PAGA notice.

15 **FACTUAL ALLEGATIONS**

16 16. This lawsuit arises out of an ongoing wrongful scheme by Defendant to deny its
17 employees the benefits due under California's wage and hour laws for work performed in
18 California. Defendant wrongfully refused to pay Plaintiff and Aggrieved Employees regular
19 wages, overtime compensation, business expense reimbursements, and other statutory benefits
20 mandated by California.

21 17. Throughout the Relevant Time Period, Defendant employed Plaintiff and
22 Aggrieved Employees in non-exempt positions throughout its California locations. Accordingly,
23 these positions remain non-exempt from California's wage and hour laws yet Defendant fail to
24 pay overtime, provide meal and rest breaks and otherwise pay all wages due to these non-exempt
25 employees as required by law.

26 18. During the Relevant Time Period, Defendant failed to compensate Plaintiff and
27 Aggrieved Employees legally mandated overtime rate for all work performed during their shifts
28 in violation of the Labor Code and the Labor Code and Industrial Welfare Commission ("IWC")

1 Wage Orders. Plaintiff and Aggrieved Employees performed work off-the-clock, during overtime
2 periods and during meal and rest periods when Plaintiff and Aggrieved Employees were
3 ostensibly off-duty. Plaintiff and Aggrieved Employees regularly and frequently worked beyond
4 the eighth hour of the shift and/or forty hours per week, but Defendant compensated only for forty
5 (40) hours per week.

6 19. Defendant failed to provide Plaintiff and Aggrieved Employees with meal periods
7 in violation of the IWC Wage Orders. Plaintiff and Aggrieved Employees were entitled to timely,
8 uninterrupted, thirty (30) minute meal periods with the first (5) hours worked. However,
9 Defendant instructed Plaintiff and Aggrieved Employees to continue working until their job duties
10 were completed which resulted in late meal periods. Defendant also instructed Plaintiff and
11 Aggrieved Employees to clock out for meal periods and continue working off-the-clock clock
12 which resulted in missed meal periods. In addition, Defendant failed to provide second meal
13 periods when Plaintiff and Aggrieved Employees worked in excess of ten (10) hours. As a result
14 of Defendant' daily work requirements, demands, and unlawful policies, Plaintiff and Aggrieved
15 Employees did not receive all meal periods or payment of one (1) additional hour of pay at
16 Plaintiff and Aggrieved Employees' regular rate of pay when they did not receive a timely,
17 uninterrupted thirty (30) minute off-duty meal period.

18 20. Defendant also failed to make reasonably available legally complaint rest periods.
19 Specifically, Plaintiff and Aggrieved Employees could not take any duty-free breaks lasting ten
20 (10) minutes in violation of the Labor Code and the IWC Wage Orders, due to Defendant's
21 uniform practice of denying and/or interrupting these breaks. Specifically, Defendant regularly
22 shortened Plaintiff and Aggrieved Employees' rest breaks to less than ten (10) minutes,
23 interrupted rest breaks with work assignments, and instructed them to forego rest breaks and
24 continue working. As a result of Defendant' daily work requirements, demands, and failure to
25 implement a rest break policy, Plaintiff and Aggrieved Employees did not receive all paid rest
26 periods or payment of one (1) additional hour of pay at Plaintiff and Aggrieved Employees regular
27 rate of pay when a paid rest period was missed, truncated, or interrupted.

28 21. As a result of Defendant' aforementioned failure to pay all wages to Plaintiff and

1 Aggrieved Employees, among other things, Defendant failed to maintain accurate payroll records
2 showing the accurate number of hours worked, accurate rate of pay for each hour worked,
3 premium wages earned, and accurate gross and net wages paid in violation of Labor Code. In
4 addition, Plaintiff and Aggrieved Employees were not provided with accurate itemized wage
5 statements that accurately reported their gross and net wages earned, total hours worked, premium
6 wages earned, and each applicable rate of pay in effect during the pay period with the
7 corresponding number of hours worked, among other things.

8 22. Plaintiff and Aggrieved Employees who ended their employment during the Relevant
9 Time Period, were not paid the above due compensation or premium compensation timely upon
10 the termination of their employment as required by Labor Code.

11 23. Defendant further failed to reimburse Plaintiff and Aggrieved Employees for any
12 necessary business expenses. Specifically, Defendant required Plaintiff and Aggrieved
13 Employees to wear and maintain its uniforms and purchase work supplies to carry out their job
14 duties without reimbursement. In violation of the Labor Code, Defendant failed to reimburse
15 Plaintiff and Aggrieved Employees for these business-related expenditures.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF PAGA FOR RECOVERY OF UNPAID MINIMUM WAGE**

18 **AND OVERTIME**

19 **(Labor Code Sections 226.7 and 512)**

20 **(Plaintiff Against All Defendants)**

21 24. Plaintiff realleges and incorporates by reference the preceding paragraphs of this
22 complaint as if fully set forth herein.

23 25. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day
24 and forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees
25 minimum wage for all hours worked and overtime premium for hours worked in excess of over
26 eight (8) hours per day and/or forty (40) hours per week for work performed for the Defendant.
27 Defendant failed to pay Plaintiff and Aggrieved Employees overtime premium for hours worked
28 in excess of eight (8) hours per day and forty (40) hours per week for work performed for

1 Defendant. Defendant failed to schedule Plaintiff and Aggrieved Employees in such a manner
2 that allowed Plaintiff and Aggrieved Employees to be relieved of their shift immediately, thereby
3 causing Plaintiff and Aggrieved Employees to work in excess of eight (8) hours per day and/or
4 forty (40) hours per week. As such, Plaintiff and Aggrieved Employees seek overtime in an
5 amount according to proof, which they earned and accrued one (1) year prior to filing this
6 complaint, according to proof, as part of the civil penalty pursuant to Labor Code section 558,
7 subdivision (a).

8 26. Defendant willfully violated the Labor Code by failing to pay Plaintiff and
9 Aggrieved Employees all wages, including both minimum wage and overtime. Plaintiff and
10 Aggrieved Employees performed work off-the-clock, during overtime periods and during meal
11 and rest periods, when Plaintiff and Aggrieved Employees were ostensibly off-duty. Plaintiff and
12 Aggrieved Employees also regularly and frequently worked beyond the eighth hour of the shift
13 and/or forty hours per week, but Defendant compensated only for forty (40) hours per week failing
14 to compensate for overtime work in violation of the Labor Code Section 510.

15 27. Since the LWDA has not indicated that it will be investigating more than 65 days
16 since Plaintiff provided notice, and because Defendant took no corrective action to remedy the
17 allegations set forth above, Plaintiff, as a representative of the people of the State of California,
18 will seek any and all penalties otherwise capable of being collected by the Labor Commission,
19 the LWDA and/or the Department of Labor Standards Enforcement (“DLSE”). This includes each
20 of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3,
21 subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

22 28. Plaintiff is informed and believes that Defendant have violated, and continue to
23 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
24 minimum wages and overtime.

25 29. Plaintiff, as a personal representative of the general public, will and does seek to
26 recover any and all penalties for each and every violation shown to exist or to have occurred
27 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
28 otherwise only available to public agency enforcement actions. Funds recovered will be

distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA.

30. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment interest.

SECOND CAUSE OF ACTION

VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR PREMIUM COMPENSATION IN LIEU THEREOF

(Labor Code Sections 226.7 and 512)

(Plaintiff against All Defendants)

31. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

32. Labor Code sections 226.7 and 512 and IWC Wage Order 5-2001, Sect. 11 provides that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes or employ any person for a work period of more than ten (10) hours without a second meal period of not less than thirty (30) minutes.

33. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not relieving employees from all work duties during meal periods thereby preventing employees from taking legally compliant meal periods.

34. Industrial Welfare Commission (IWC) Wage Order No. 5-2001 (Wage Order 5) section 11, subdivision (A) states, "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents

1 an employee from being relieved of all duty and when by written agreement between the parties
2 an on-the-job paid meal period is agreed to. The written agreement shall state that the employee
3 may, in writing, revoke the agreement at any time.”

4 35. The burden to prove that a meal or rest period violation has occurred normally
5 rests on the Plaintiff. However, under *Safeway, Inc. v. Superior Court* (238 Cal.App.4th 1138,
6 1159-60 (2015)), where an employer fails to keep accurate records of meal and rest periods, a
7 presumption of meal and rest period violations is created, shifting the burden to the employer to
8 prove that meal and rest period violations did not occur.

9 36. Defendant failed to schedule non-exempt employees in an adequately overlapping
10 manner so as to reasonably ensure Plaintiff and Aggrieved Employees could take and/or receive
11 such meal periods within the statutory timeframe. Further, Defendant obligated Plaintiff and
12 Aggrieved Employees to work through meal periods while off-the-clock. Defendant denied
13 Plaintiff and Aggrieved Employees duty-free meal periods, as a result, Plaintiff and Aggrieved
14 Employees were often forced to forego meal periods and/or work during their meal periods. In so
15 doing, Defendant have intentionally and improperly denied meal periods to Plaintiff and
16 Aggrieved Employees in violation of Labor Code sections 226.7 and 512 and other regulations
17 and statutes.

18 37. Defendant failed to keep accurate records of the meal periods taken by Plaintiff
19 and Aggrieved Employees.

20 38. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more
21 than five (5) hours in a workday.

22 39. At varying times relevant hereto, Plaintiff and Aggrieved Employees at times have
23 worked more than ten (10) hours in a workday.

24 40. At all times relevant hereto, Defendant failed to offer or to schedule non-exempt
25 positions in a manner so as to reasonably provide meal and/or work free meal period as required
26 by Labor Code sections 226.7 and 512.

27 41. Defendant’ failure to schedule Plaintiff and Aggrieved Employees in such a way
28 as to provide meal periods, and/or work free meal periods to Plaintiff and Aggrieved Employees,

1 and/or to provide on-duty meal periods in accordance with the applicable IWC Wage Order, has
2 caused Plaintiff and Aggrieved Employees to suffer, and continue to suffer, injury which will be
3 ascertained according to proof at trial.

4 42. Further, Defendant' failure to maintain accurate records of the meal periods taken
5 by Plaintiff and Aggrieved Employees creates a presumption of the violations having occurred
6 and shifts the burden to Defendant to prove they did not occur.

7 43. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
8 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
9 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
10 as the assessment of any civil penalties against Defendant, and each of them, in a sum as provided
11 by the Labor Code and/or other statutes.

12 44. Since the LWDA has not indicated that it will be investigating and sixty-five (65)
13 days have passed since Plaintiff mailed his letter, and because Defendant took no corrective action
14 to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State
15 of California, will seek any and all penalties otherwise capable of being collected by the Labor
16 Commission, the LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This
17 includes each of the following, as set forth in Labor Code section 2699.5, which provides that
18 section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 510
19 and 1194.

20 45. Plaintiff is informed and believes that Defendant have violated and continue to
21 violate provisions of the Labor Code and applicable Wage orders related to the payment of
22 minimum wages, including overtime.

23 46. Plaintiff, as a personal representative of the general public, will and does seek to
24 recover any and all penalties for each and every violation shown to exist or to have occurred
25 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
26 otherwise only available to public agency enforcement actions. Funds recovered will be
27 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
28 recovered being reimbursed to the LWDA.

47. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

THIRD CAUSE OF ACTION

**VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS OR
PREMIUM COMPENSATION IN LIEU THEREOF**

(Labor Code Sections 226.7 and 512)

(Plaintiff against All Defendants)

48. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

49. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

50. Labor Code section 226.7, subdivision (b), provides that if an employer fails to provide an employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

51. Defendant, and each of them, failed and or refused to implement a relief system by which Plaintiff and Aggrieved Employees could receive rest periods and/or work free rest periods. Defendant denied Plaintiff and Aggrieved Employees duty free rest periods by interrupting Plaintiff and Aggrieved Employees' rest periods. By and through their actions, Defendant intentionally and improperly denied duty free rest periods to the Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

52. Furthermore, Defendant failed to provide Plaintiff and Aggrieved Employees with duty free rest periods or failed to provide Plaintiff and Aggrieved Employees with rest periods all together in violation of Labor Code section 226.7 and 512.

53. Defendant failed to keep accurate records of the rest periods taken by Plaintiff and Aggrieved Employees.

54. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked more than four (4) hours in a workday.

1 55. By virtue of the Defendant' unlawful failure to provide rest periods to Plaintiff and
2 Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiff and
3 Aggrieved Employees have suffered, and will continue to suffer, damages, in amounts which are
4 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
5 ascertained according to proof at trial.

6 56. Plaintiff, by virtue of Plaintiff's employment with Defendant, Defendant' failure
7 to provide Plaintiff and Aggrieved Employees with rest breaks, and Defendant' policy of
8 requiring employees to work through their rest periods without receiving compensation in lieu
9 thereof, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has
10 satisfied all prerequisites to serve as a representative of the general public to enforce California's
11 labor laws, and the penalty provisions identified in Labor Code section 2699.5.

12 57. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
13 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
14 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
15 as the assessment of any civil penalties against Defendant, and each of them, in a sum as provided
16 by the Labor Code and/or other statutes. Plaintiff, as a representative of the people of the State of
17 California, will seek any and all penalties otherwise capable of being collected by the Labor
18 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
19 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
20 alleged violation of the following provisions: 226.7 and 512.

21 58. Plaintiff, as a personal representative of the general public, will and does seek to
22 recover any and all penalties for each and every violation shown to exist or to have occurred
23 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
24 otherwise only available to public agency enforcement actions. Funds recovered will be
25 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
26 recovered being reimbursed to the LWDA.

27 59. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
28 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF PAGA FOR FAILURE TO KEEP ACCURATE PAYROLL**
3 **RECORDS AND TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

4 **(Labor Code Sections 1174 and 226, subdivision (A), (E))**

5 **(Plaintiff against All Defendants)**

6 60. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
7 preceding paragraphs of this complaint as if fully set forth herein.

8 61. Labor Code section 1174, subdivision (d), requires an employer to keep at a central
9 location in California or at the plant or establishment at which the employees are employed,
10 payroll records showing the hours worked daily, and the wages paid to each employee. Plaintiff
11 is informed and believes, based thereon alleges, that Defendant willfully failed to make or keep
12 accurate records for Plaintiff and similarly-aggrieved employees.

13 62. Labor Code section 226, subdivision (a), states in pertinent part that, “every
14 employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her
15 employees, either as a detachable part of the check, draft, or voucher paying the employee’s
16 wages, or separately when wages are paid by personal check or cash, an accurate itemized
17 statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee...;
18 (3) the number of piece-rate units earned...; (4) all deductions...; (5) net wages; (6) the inclusive
19 dates of the period for which the employee is paid; (7) the name of the employee and only the last
20 four digits of his or her social security number or an employee identification number other than a
21 social security number; (8) the name and address of the legal entity that is the employer...; and
22 (9) all applicable hourly rates in effect during the pay period and corresponding number of hours
23 worked at each hourly rate by the employee...” (Lab. Code, § 226.)

24 63. Defendant knowingly and intentionally failed to provide timely and accurate
25 itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code
26 section 226, subdivision (a), by failing to record the accurate number of hours worked, the
27 accurate rate of pay for each hour worked, the accurate amount of premiums wages earned, the
28 accurate net pay, and the accurate gross pay. Such failure caused injury to Plaintiff and Aggrieved

1 Employees.

2 64. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
3 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
4 initial pay period in which a violation occurs and one-hundred (\$100.00) per employee for each
5 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

6 65. Plaintiff, as a personal representative of the general public, will and does seek to
7 recover any and all penalties for each and every violation shown to exist or to have occurred
8 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
9 otherwise only available to public agency enforcement actions. Funds recovered will be
10 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
11 reimbursed to the LWDA.

12 66. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
13 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

14
15 **FIFTH CAUSE OF ACTION**
16 **VIOLATION OF PAGA FOR FAILURE TO PAY WAGES DUE UPON**
17 **TERMINATION OF EMPLOYMENT**
18 **(Labor Code Sections 201 and 203)**
19 **(Plaintiff against All Defendants)**

20 67. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
21 preceding paragraphs of this complaint as if fully set forth herein.

22 68. Plaintiff is informed and believes that certain members of the Aggrieved
23 Employees who ended their employment with Defendant during the Relevant Time Period, were
24 entitled to be promptly paid both minimum wage and lawful overtime compensation and other
25 premiums, as required by Labor Code sections 201 and 203.

26 69. Defendant refused and/or failed to promptly compensate Aggrieved Employees
27 wages owed as a result of Defendant' failure to provide meal and/or rest periods as well as pay
28 both minimum and overtime compensation owed for work performed for Defendant.

1 76. Plaintiff and the Aggrieved Employees were not reimbursed by Defendant for
2 necessary expenditures as a direct consequence of the discharge of their duties.

3 77. Defendant knowingly, willingly and intentionally attempted to offset the cost of
4 doing business on the Plaintiff and Aggrieved Employees.

5 78. Defendant had a practice and policy of requiring Plaintiff and Aggrieved
6 Employees to shoulder the burden of Defendant's cost of doing business by failing to reimburse
7 Plaintiff and Aggrieved Employees for necessary business expenditures, specifically the cost of
8 maintaining Defendant's uniforms and purchase work supplies to carry out their job duties.

9 79. Accordingly, Plaintiff and Aggrieved Employees are entitled to an award of
10 "necessary expenditures or losses" which shall include all reasonable costs, including, but not
11 limited to, attorney's fees and interest.

12 80. Plaintiff by virtue of his employment with Defendant and the Defendant's policy
13 of requiring Plaintiff and Aggrieved Employees to shoulder the burden of Defendant's cost of doing
14 business by failing to reimburse Plaintiff and Aggrieved Employees for necessary expenditures,
15 is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied
16 all prerequisites to serve as a representative of the general public to enforce California's labor
17 laws, and the penalty provisions identified in Labor Code section 2699.5.

18 81. Plaintiff, as a representative of the people of the State of California, will seek any
19 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
20 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
21 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:
22 201-203, 226, 226.7, 510, 512, 1174, and 1194.

23 82. Plaintiff, as a personal representative of the general public, will and does seek to
24 recover any and all penalties for each and every violation shown to exist or to have occurred
25 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
26 otherwise only available to public agency enforcement actions. Funds recovered will be
27 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
28 recovered being reimbursed to the LWDA.

83. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and Aggrieved Employees pray for judgment as follows:

1. For civil penalties for each violation for Plaintiff and each Aggrieved Employee as provided by law, including, but not limited to, those civil penalties provided by statute, provided by PAGA;
2. For costs of suit and expenses incurred herein pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis or pursuant to the California Rules of Court;
3. For reasonable attorneys' fees pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis; and
4. For all such other and further relief as the Court may deem just and proper.

Dated: July 31, 2020

MAHONEY LAW GROUP, APC

By:


Kevin Mahoney, Esq.
Edward Kim, Esq.
Attorneys for Plaintiff RAFAEL MONDRAGON

Exhibit A



Kevin Mahoney, Esq.
562.590.5550 phone
562.590.8400 facsimile
kmahoney@mahoney-law.net

April 2, 2020

VIA ONLINE SUBMISSION

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfiling@dir.ca.gov

VIA CERTIFIED MAIL # 7019 0700 0001 7572 1731

Return Receipt Requested

Let's Do Lunch dba Integrated Food Service
310 W. Alondra Blvd.
Gardena, CA 90248

Re: Rafael Mondragon v. Let's Do Lunch dba Integrated Food Service

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION SECTIONS 2698 ET SEQ.**

To: California Labor and Workforce Development Agency and Let's Do Lunch dba Integrated Food Service

From: Rafael Mondragon, on behalf of himself and aggrieved employees who were subject to Let's Do Lunch dba Integrated Food Service's unlawful wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Rafael Mondragon ("Mr. Mondragon") as a representative for all other aggrieved employees, who intends to file a complaint alleging various Labor Code violations and seek civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.* ("PAGA").

Please be advised that this letter constitutes written notice required by Labor Code sections 2699.3, subdivision (a)(1) and 2699.3, subdivision (c)(1) and may lead to an action against Let's Do Lunch dba Integrated Food Service ("Employer") in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Employer, and any and all related, parent, and/or alter ego companies, corporations, partnerships, subsidiaries, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under law for any of the violations

alleged herein.

Theories of Labor Code Violations and Remedies

Employer is a corporation that manufactures and sells food items to schools, retailers, and distributors throughout California. Mr. Mondragon worked for Employer as a non-exempt employee within the past year. Mr. Mondragon alleges that Employer violated various sections of the Labor Code, including sections 201, 202, 203, 204, 206, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802, by failing to provide Mr. Mondragon and all other aggrieved employees' wages for all hours worked, including, but not limited to, minimum, regular, overtime, and double time wages, failing to provide meal and rest periods or compensation in lieu thereof, failing to provide accurate wage statements, failing to maintain accurate records of hours worked, failing to pay all compensation due upon separation of employment, and failing to reimburse business expenses. Mr. Mondragon and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer as non-exempt employees during the PAGA Period defined as one year prior to the submission of this letter to the Labor and Workforce Development Agency ("LWDA") and certified mailing to Employer until resolution of these claims.

Employer failed to pay Mr. Mondragon and other aggrieved employees for all hours worked at the legally mandated wage rates, including minimum, regular, overtime, and double time compensation. Specifically, Employer required Mr. Mondragon and other aggrieved employees to work-off-the-clock during their meal periods and after the end of their shifts without providing minimum, regular, overtime, or double time compensation. Employer's conduct is in violation of Labor Code sections 510, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and the applicable IWC Wage Orders.

Employer also regularly failed to provide Mr. Mondragon and other aggrieved employees with compliant meal and rest periods. Mr. Mondragon and other aggrieved employees missed their meal periods, took them late, had them shortened or interrupted to perform work related tasks as a result of Employer's workload and instructions. Specifically, Employer instructed Mr. Mondragon and other aggrieved employees to forego their meal periods and continue working until their job duties were completed which resulted in late meal periods. Employer also instructed Mr. Mondragon and other aggrieved employees to clock out and continue working through their meal periods off-the-clock resulting in missed meal periods. In addition, Employer failed to provide Mr. Mondragon and other aggrieved employees a second meal period when they worked in excess of 10 hours. Employer similarly failed to permit Mr. Mondragon and other aggrieved employees to take 10-minute, uninterrupted rest breaks, due to Employer shortening rest breaks to less than 10 minutes, interrupting rest breaks with work assignments, and instructions to forego rest breaks and continue working. Even though Mr. Mondragon and other aggrieved employees were prevented from taking compliant meal and rest periods, Employer failed to provide them with premium pay for every non-compliant meal or rest period. Employer's conduct is in violation of Labor Code sections 226.7 and 512 and is also actionable under PAGA.

Further, as a result of Employer's failure to pay all wages owed as described herein,

Employer violated Labor Code sections 201, 202, 203, 204, 206, and 210 due to their uniform policy, practice, and procedure of failing to timely pay all of the above-mentioned wages earned during and after Mr. Mondragon and the aggrieved employees' employment with Employer.

As a result of Employer's failure to pay all wages owed as described herein, Employer further failed to maintain accurate payroll records and failed to provide Mr. Mondragon and other aggrieved employees with complete and accurate wage statements showing the actual hours worked, total hours worked, number of hours worked at each hourly rate, gross and net wages earned, and premium wages earned per pay period, among other things. This conduct is in violation of Labor Code sections 226, 226.3, 1174, and 1174.5 and is actionable under PAGA.

Employer also failed to reimburse Mr. Mondragon and other aggrieved employees for necessary business expenses incurred in the course of performing their job duties. Specifically, Employer required Mr. Mondragon and other aggrieved employees to wear and maintain uniforms (e.g., altering, washing, drying, ironing, and dry cleaning), and purchase supplies (e.g., thermal clothing and other protective gear) without reimbursement. Employer's failure to reimburse Mr. Mondragon and other aggrieved employees for these business-related expenditures is in violation of Labor Code sections 2800 and 2802 and actionable under PAGA.

Mr. Mondragon will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Mahoney Law Group, APC
Kevin Mahoney
249 E. Ocean Blvd. Suite 814
Long Beach, CA 90802
Telephone: (562) 590-55580
Email: kmahoney@mahoney-law.net

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kevin Mahoney', with a stylized flourish extending from the end.

Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC