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ENDORSED
FILED
ALAMEDA COUNTY
AUG 26 2020
CLERK OF THE SUPERIOR COURT
By ______________ Deputy

Attorneys for Plaintiff ESMERALDA QUEVEDO, as representative of the State of California and the Labor and Workforce Development Agency, and on behalf of himself and other current and former employees,

IN THE SUPERIOR COURT OF STATE OF CALIFORNIA

THE COUNTY OF ALAMEDA

ESMERALDA QUEVEDO,

Plaintiff

v.

ANDERSEN AMERICA, INC., and DOES 1 through 50, inclusive,

Defendant.

Case No.: RG20072404

REPRESENTATIVE ACTION COMPLAINT FOR CIVIL FINES

1. Violation of PAGA for Failure to Provide Meal Periods (Lab. Code, § 226.7, 512);
2. Violation of PAGA for Failure to Provide Rest Periods (Lab. Code, § 226.7, 512);
3. Violation of PAGA for Failure to Pay All Wages Including Minimum Wages and Overtime Wages (Lab. Code, § 510, 1194);
4. Violation of PAGA for Failure to Keep Accurate Payroll Records (Lab. Code, § 1174, 226, subd. (A), (E));
5. Violation of PAGA for Failure to Reimburse for Necessary Expenditures (Lab. Code, § 2802); and
6. Violation of PAGA for Waiting Time Penalties (Lab. Code, § 201, 202, 203);

Plaintiff ESMERALDA QUEVEDO ("Plaintiff" or "Ms. Quevedo"), as a representative of the State of California and the Labor and Workforce Development Agency ("LWDA"), and on behalf of himself and other current and former employees, complains and alleges as follows:

PRELIMINARY STATEMENT

1. This case arises out of the violation of numerous Labor Code provisions by ANDERSEN AMERICA, INC, ("AAI" or "Defendant"), a California corporation that operates bakeries in the State of California. Plaintiff and similarly-aggrieved employees seek wages and reimbursements that Defendant has failed and/or refused to pay to their employees.

2. This case arises out of the violation of numerous Labor Code provisions, including, but not limited to, Defendant's failure to provide meal periods, failure to provide rest periods, failure to pay overtime wages, failure to reimburse employees for business-related expenses, failure to keep accurate payroll records, and failure to pay waiting time penalties as set forth more fully herein. These violations concern current and past employees of AAI.

3. Plaintiff and other similarly situated employees seek recovery of all civil penalties under Private Attorneys General Act of 2004, Labor Code sections 2698 et seq. ("PAGA") for AAI's violation of various section of the Labor Code.

JURISDICTION AND VENUE

4. Venue is proper in San Francisco County, because the Defendant maintains its location and transacts business in this county, the obligations and liability primarily arise in this county, and worked was primarily performed by Plaintiff and similarly-aggrieved employees in San Francisco County.

5. The California Superior Court has jurisdiction in the matter because the individual claims are under the seventy-five thousand dollar ($75,000.00) jurisdictional threshold for federal court and, upon information and belief, Plaintiff and Defendant are residents of and/or domiciled in the State of California. Further, there is no federal question at issue as the issues herein is based solely on California Statutes and law, including the Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure, Rule of Court, and Business and Professions Code.

THE PARTIES

Plaintiff

6. Individual and Representative Plaintiff Ms. Quevedo is an individual residing in San Francisco County.

7. Plaintiff was employed by Defendant as a cook from approximately 1992 to July 2018.

Defendant

8. Plaintiff is informed and believes, and based thereon alleges, that AAI is a California corporation organized under the laws of the State of California and is and/or was Plaintiff and similarly-aggrieved employees' employer during the Relevant Time Period, herein defined as the period of one (1) year and sixty-five (65) days preceding the filing of this complaint.

9. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 50, inclusive, but on information and belief allege that said Defendants are legally responsible for the occurrences alleged herein, and that the damages of Plaintiff and similarly-aggrieved employees were proximately caused by such Defendants. Plaintiff will amend this complaint to allege the true names and capacities of the DOE Defendants when ascertained.

10. Plaintiff is informed and believes, and based thereon alleges, that each Defendant herein was, at all times relevant to this action, the agent, employee, representing partner, and/or joint venture of the remaining Defendants and was acting within the course and scope of the relationship. Plaintiff is further informed and believes, based thereon alleges, that each of the Defendants herein gave consent to, ratified and authorized the acts alleged herein to the remaining Defendants.

11. Plaintiff is further informed and believes, and based thereon alleges, that Defendants herein acted as a "single employer" at all relevant times. At all relevant times, Defendants managed stucco and plastering work across the state of California. Defendants acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint

scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

ADMINISTRATIVE PREREQUISITE

12. By this complaint, Plaintiff brings this case as a representative action seeking penalties for the State of California in a representative capacity, as provided by the Private Attorneys' General Act ("PAGA"), Labor Code sections 2698 et seq., to the extent permitted by law, as an aggrieved employee who was employed by Defendant and subject to alleged violations set forth in Labor Code section 2699.5. Plaintiff specifically alleged the following in his/her notice to the LWDA and the employer: violation of Labor Code sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802.

13. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause of action under PAGA only after giving the LWDA and the employer notice of the Labor Code sections alleged to have been violated, and after receiving notice from the LWDA of its intention not to investigate, or after sixty-five (65) days have passed without notice from the LWDA.

14. On July 1, 2019, prior to the filing of this complaint, Plaintiff gave written notice of the specific provisions alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code section 2699.3. The written notice was given via certified mail to Defendant(s), and the LWDA by electronically filing the notice via the Department of Industrial Relations website. Plaintiff was given an LWDA case number of LWDA-CM-713045-19. A true and correct copy of Plaintiff's notice to the LWDA and Defendant(s), dated July 1, 2019, is attached hereto as Exhibit A.

GENERAL ALLEGATIONS

15. Labor Code section 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in a civil action the unpaid balance of their overtime compensation, including interest thereon, reasonable attorneys' fees and costs of suit.

16. During all or a portion of the Relevant Time Period, Plaintiff and similarly-aggrieved employees were employed by Defendant in the State of California. Plaintiff and similarly-aggrieved employees were non-exempt employees covered under one (1) or more Industrial Welfare Commission ("IWC") Wage Orders, and Labor Code section 510, and/or other applicable wage orders, regulations and statutes, and were not subject to an exemption for executive, administrative and professional employees, which imposed obligations on the part of Defendant to pay Plaintiff and similarly-aggrieved employees lawful overtime compensation. Plaintiff and similarly-aggrieved employees were covered by one (1) or more IWC Wage Orders, and Labor Code section 226.7 and other applicable Wage Orders, regulations, and statutes which imposed an obligation on the part of the Defendant to pay Plaintiff and similarly-aggrieved employees rest and meal period compensation.

17. During the Relevant Time Period, Defendant was obligated to pay Plaintiff and similarly-aggrieved employees overtime compensation for all hours worked over eight (8) hours of work in one (1) day or forty (40) hours in one (1) week.

18. During the Relevant Time Period, Defendant was obligated to provide Plaintiff and similarly-aggrieved employees with a work free meal and/or rest period.

19. Plaintiff and similarly-aggrieved employees primarily performed non-exempt work in excess of the maximum regular rate hours set by the IWC in the applicable Wage Orders, regulations or statutes, and therefore entitled Plaintiff and similarly-aggrieved employees to overtime compensation at time and a half rate, and when applicable, double-time rates as set forth by the applicable Wage Orders, regulations and/or statutes.

20. Plaintiff and similarly-aggrieved employees were not paid the above due overtime compensation timely upon the termination of their employment as required by Labor Code sections 201, 202, and 203, and are entitled to penalties as provided by Labor Code section 203.

21. During the Relevant Time Period, Defendant required Plaintiff and similarly-aggrieved employees to work overtime without lawful compensation, in violation of the various applicable Wage Orders, regulations, and statutes, and Defendant: (1) Willfully failed and

refused, and continue to fail and refuse to pay lawful overtime compensation to Plaintiff and similarly-aggrieved employees; and (2) willfully failed and refused, and continue to fail and refuse to pay due and owing wages promptly upon termination of employment to Plaintiff and similarly-aggrieved employees.

22. During the Relevant Time Period, Defendant failed and/or refused to schedule Plaintiff and similarly-aggrieved employees in an overlapping manner so as to reasonably ensure meal and/or rest breaks and/or shift relief for Plaintiff and similarly-aggrieved employees, thereby causing Plaintiff and similarly-aggrieved employees to work without being given paid ten (10) minute rest periods for every four (4) hours or major fraction thereof worked and without being given a thirty (30) minute meal period for shifts of at least five (5) hours and second thirty (30) minute meal periods for shifts of at least ten (10) hours during which Plaintiff and similarly-aggrieved employees were relieved of all duties and free to leave the premises. Defendant further failed and/or refused to schedule Plaintiff and similarly-aggrieved employees in a manner so as to reasonably ensure meal and/or rest breaks were taken within the required statutory time frame and uninterrupted as required by law. Furthermore, Defendant failed and/or refused to pay Plaintiff and similarly-aggrieved employees one (1) hour's pay at the employees' regular rate of pay as premium compensation for failure to provide rest and/or meal periods or to providing such rest and/or meal periods within the statutory time frame as a result of their scheduling policy.

23. During the Relevant Time Period, Defendant failed and/or refused to reimburse Plaintiff and similarly aggrieved employees for business expenditures incurred in connection with the performance and execution of their job duties. Specifically, Defendant had a corporate practice and policy of requiring Plaintiff and similarly-aggrieved employees to shoulder the burden of Defendant's cost of doing business by failing to reimburse Plaintiff and similarly-aggrieved employees for necessary business expenditures.

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<u>FIRST CLAIM FOR RELIEF</u>

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO PROVIDE MEAL PERIODS

(Lab. Code, § 226.7 and 512)

(Plaintiff against Defendant)

24. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

25. Labor Code sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period 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.

26. 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.

27. Defendant failed to schedule Plaintiff and similarly-aggrieved employees in an overlapping manner so as to reasonably ensure Plaintiff and similarly-aggrieved employees could take and/or receive uninterrupted and timely meal periods within the statutory timeframe. As a result, Plaintiff and similarly-aggrieved employees were often forced to forego a meal period and/or work during their meal period. In so doing, Defendant has intentionally and improperly denied meal periods to Plaintiff and similarly-aggrieved employees in violation of Labor Code sections 226.7 and 512 and other regulations and statutes.

28. At all times relevant hereto, Plaintiff and similarly-aggrieved employees have worked more than five (5) hours in a workday.

29. At varying times relevant hereto, Plaintiff and similarly-aggrieved employees at times have worked more than ten (10) hours in a workday.

30. By virtue of the Defendant's failure to schedule Plaintiff and similarly-aggrieved employees in such a way as to provide a meal period, and/or work free meal period to Plaintiff

and similarly-aggrieved employees thereby causing Plaintiff and similarly-aggrieved employees to suffer, and continue to suffer, damages in amounts which are presently unknown, but will be ascertained according to proof at trial.

31. Plaintiff has complied with the reporting requirements under Labor Code sections 2698-2699, individually and on behalf of all aggrieved employees. Plaintiff requests and is entitled to recover from Defendant penalties for failure to keep accurate payroll records, interest, attorney's fees and costs pursuant to Labor Code section 226.7.

SECOND CLAIM FOR RELIEF

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO PROVIDE REST PERIODS

(Lab. Code, § 226.7 and 512)

(Plaintiff against Defendant)

32. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

33. 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.

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

35. Defendant failed and or refused to implement a relief system by which Plaintiff and similarly-aggrieved employees could receive rest breaks and/or work free rest breaks. Furthermore, due to Defendant's relief system, Plaintiff and similarly-aggrieved employees did not receive his rest breaks within the required statutory time frame. By and through their actions, Defendant intentionally and improperly denied rest periods to Plaintiff and similarly-aggrieved employees in violation of Labor Code sections 226.7 and 512.

36. At all times relevant hereto, Plaintiff and similarly-aggrieved employees have worked more than four (4) hours in a workday.

37. By virtue of Defendant's unlawful failure to provide rest periods to Plaintiff and similarly-aggrieved employees as a result of their scheduling and shift relief system, Plaintiff and similarly-aggrieved employees have suffered, and will continue to suffer, damages, in amounts which are presently unknown, but will be ascertained according to proof at trial.

38. Plaintiff has complied with the reporting requirements under Labor Code sections 2698-2699, individually and on behalf of all aggrieved employees. Plaintiff requests and is entitled to recover from Defendant penalties for failure to keep accurate payroll records, interest, attorney's fees and costs pursuant to Labor Code section 226.7.

THIRD CLAIM FOR RELIEF

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO PAY ALL WAGES INCLUDING MINIMUM WAGE AND OVERTIME WAGES

(Lab. Code, § 1194)

(Plaintiff against Defendant)

39. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

40. Plaintiff and similarly aggrieved employees regularly worked over eight (8) hours per day and forty (40) hours per week. Defendants failed to pay Plaintiff and similarly aggrieved employees for all hours worked by failing to record actual hours worked, e.g., time spent working off-the-clock, including, during meal periods and picking up work related materials from Defendants' other locations, among other things. As a consequence, Defendants failed to pay Plaintiff and similarly aggrieved employees all minimum, regular, overtime, and/or double-time wages for all hours worked, including hours in excess of over eight (8) per day and 40 per workweek. Pursuant to Labor Code 1194, the Plaintiff and similarly aggrieved employees seek the payment of all minimum, regular, overtime, and/or double-time compensation which they earned and accrued for one (1) year prior to filing this complaint, according to proof.

41. To the extent that such unpaid wages were for hours worked in excess of eight (8) in one day or forty (40) in one week, such wages were required to be paid at an overtime rate of one-and-a-half times each employee's base rate of pay.

42. By virtue of Defendant's unlawful failure to provide all wages owed to Plaintiff and similarly-aggrieved employees, Plaintiff and similarly-aggrieved employees have suffered, and will continue to suffer, damages in amounts which are presently unknown, but will be ascertained according to proof at trial.

43. 51. Plaintiff has complied with the reporting requirements under Labor Code sections 2698-2699, individually and on behalf of all aggrieved employees. Plaintiff requests and is entitled to recover from Defendant penalties for failure to keep accurate payroll records, interest, attorney's fees and costs pursuant to Labor Code section 1194.

FOURTH CLAIM FOR RELIEF

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO KEEP ACCURATE PAYROLL RECORDS

(Lab. Code, § 1174, 226, subd. (a), (e))

(Plaintiff against Defendant)

44. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

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

46. Labor Code section 226, subdivision (a), requires employers to furnish each employee with a statement that accurately reflects the total number of hours worked and applicable hourly overtime rates in effect during the pay period at the time of each payment of wages or semi-monthly. Labor Code section 226, subdivision (e), provides that if an employer knowingly and intentionally fails to provide a statement itemizing, *inter alia*, the total hours

worked by the employee and the applicable hourly overtime rates, causing the employee injury, then the employee is entitled to recover the greater of all actual damages or fifty dollars ($50.00) for each subsequent violation, up to four thousand dollars ($4,000.00).

47. IWC Wage Order No.5-2001, paragraph 6(A) requires that every employer shall keep accurate information with respect to each employee, including time records showing when each employee begins and ends each work period, the total daily hours worked by each employee and the total hours worked in each payroll period, and applicable rates of pay. Plaintiff is informed and believes that Defendant willfully and intentionally failed to make and/or keep records which accurately reflect the hours worked by Plaintiff and similarly-aggrieved employees. Specifically, Plaintiff believes that Defendant's records do not accurately reflect (1) actual hours worked; (2) total hours worked; (3) number of hours worked for each hourly rate; (4) gross wages earned; (5) net wages earned; and (6) premium wages earned per pay period. Further, Plaintiff believes that Defendant's records do not accurately reflect where Plaintiff and similarly-aggrieved employees worked during their meal and/or rest breaks due to Defendant's failure to schedule Plaintiff and similarly-aggrieved employees in an overlapping manner so as to provide them with a meal and/or rest break.

48. Plaintiff is informed and believes, and based thereon alleges, that Defendant's failure to keep and maintain accurate records and information, as described above, was willful, and Plaintiff and similarly-aggrieved employees are entitled to a civil penalty for violation of Labor Code section 226.

49. Defendant knowingly and intentionally failed to, and continues to fail to, furnish Plaintiff and similarly-aggrieved employees with timely, itemized statements that accurately reflect the total number of hours worked, as required by Labor Code section 226, subdivision (2), and Plaintiff and similarly-aggrieved employees suffered injury as a result. Consequently, Defendant is liable to Plaintiff and similarly-aggrieved employees for the amounts provided by Labor Code section 226, subdivision (e).

50. Plaintiff has complied with the reporting requirements under Labor Code sections 2698-2699, individually and on behalf of all aggrieved employees. Plaintiff requests

and is entitled to recover from Defendant penalties for failure to keep accurate payroll records, interest, attorney's fees and costs pursuant to Labor Code section 226.

FIFTH CLAIM FOR RELIEF

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO REIMBURSE FOR NECESSARY EXPENDITURES

(Lab. Code, § 2802)

(Plaintiff against Defendant)

51. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

52. Labor Code section 2802 states that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties...."

53. Plaintiff and similarly-aggrieved employees were not reimbursed by Defendant for necessary expenditures as a direct consequence of the discharge of their duties.

54. Defendant knowingly, willingly, and intentionally attempted to offset the cost of doing business on Plaintiff and similarly-aggrieved employees.

55. Defendant had a corporate practice and policy of requiring Plaintiff and similarly-aggrieved employees to shoulder the burden of Defendant's cost of doing business by failing to reimburse Plaintiff and similarly-aggrieved employees for necessary business expenditures. Specifically, Plaintiff and similarly-aggrieved employees were required to clean their logo'd uniforms at their own expense. The employee's uniforms would become heavily soiled as a result of working with dough, pastry creams, frosting, oils, flour, fruit and other baking necessities. Ms. Quevedo also had to sometimes use her personal vehicle to make emergency shopping trips when the bakery ran out of ingredients.

56. Plaintiff has complied with the reporting requirements under Labor Code sections 2698-2699, individually and on behalf of all aggrieved employees. Plaintiff requests and is entitled to recover from Defendant penalties for failure to keep accurate payroll records,

interest, attorney's fees and costs pursuant to Labor Code section 2802, which shall also include all reasonable costs.

SIXTH CLAIM FOR RELIEF

VIOLATION OF THE PRIVATE ATTORNEY GENERAL ACT FOR FAILURE TO PAY WAGES OF TERMINATED OR RESIGNED EMPLOYEES

(Lab. Code, § 201, 202, 203)

(Plaintiff against Defendant)

67. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

68. Plaintiff and similarly-aggrieved employees were entitled to be promptly paid lawful overtime compensation and other premiums, as required by Labor Code sections 201, 202, and 203, upon the termination of their employment with Defendant. Defendant refused and/or failed to promptly compensate Plaintiff and similarly-aggrieved employees all wages owed as a result of their unlawful rounding scheme and failure to provide meal and/or rest periods. Plaintiff seeks the payment of civil penalties pursuant to Labor Code section 203, according to proof.

69. 58. Plaintiff has complied with the reporting requirements under Labor Code sections 2698-2699, individually and on behalf of all aggrieved employees. Plaintiff requests and is entitled to recover from Defendant penalties for failure to keep accurate payroll records, interest, attorney's fees and costs pursuant to Labor Code section 203, which shall also include all reasonable costs.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. For penalties in an amount according to proof;
2. For reasonable attorney's fees and costs, pursuant to the PAGA; and
3. For such other and further relief as this Court may deem just and proper.

Dated: August 26, 2020

WORK LAWYERS, PC

By: Justin Lo

Justin Lo, Esq.
Kevin Mahoney, Esq.
Attorney for Plaintiff ESMERALDA QUEVEDO

Exhibit A

MAHONEY
LAW GROUP, APC

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kmahoney@mahoney-law.net

May 22, 2020

Via Certified Electronic Mail
LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA U.S. MAIL & CERTIFIED MAIL# 7017 2620 0001 1246 6108
Return Receipt Requested
Andersen America, Inc.
30703 San Clemente Street
Hayward, CA 94544

VIA U.S. MAIL & CERTIFIED MAIL# 7017 2620 0001 1246 6115
Return Receipt Requested
Kazamori Suzuki – Agent for Service of Process
30703 San Clemente Street
Hayward, CA 94544

Re: Esmeralda Quevedo v. Andersen America, Inc.

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

To: California Labor and Workforce Development Agency; Andersen America, Inc.

From: Esmeralda Quevedo, on behalf of herself and other aggrieved employees who were subject to the Employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Ms. Esmeralda Quevedo ("Ms. Quevedo" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq*. ("PAGA"), on behalf of herself and all other aggrieved employees.

249 East Ocean Boulevard • Suite 814 • Long Beach, CA 90802 Phone: 562-590-5550 Fax: 562-590-8400

Theories of Labor Code Violations and Remedies

Andersen America, Inc. (hereinafter "Employer" or "Andersen") is a California corporation that operates numerous bakeries and cafes throughout California. Ms. Quevedo began her employment with Employer in or around January 14, 1992 as an hourly, non-exempt employee. Ms. Quevedo's employment with Employer was terminated on August 26, 2019.

Ms. Quevedo alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, by failing to provide Ms. Quevedo and all other aggrieved employees with meal and rest periods and premium pay, failing to pay all wages owed, including minimum wage and overtime, failing to provide lawful meal and rest periods, failing to reimburse necessary business expenditures, failing to provide accurate wage statements and maintain accurate payroll records, and failing to provide all wages earned at end of employment. Ms. Quevedo and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

A. Andersen Failed to Provide Ms. Quevedo and Other Aggrieved Employees with Meal and Rest Periods, or Premium Compensation in Lieu Thereof, in Violation of California Law

Ms. Quevedo alleges that she and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their shifts. Prior to 2019, the company provided a fifty (50) minute lunches and no rest breaks whatsoever. In 2019, the lunch time provided to employees was reduced to 30 minutes and breaks were added.

Ms. Quevedo and other aggrieved employees allege that they did not always receive at least one duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the 11th hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.) When employees were prevented from taking timely and complete meal periods, they did not always receive premium pay as compensation for the missed meal period.

Ms. Quevedo further alleges that prior to 2019, she and other aggrieved employees never received at least one duty-free, uninterrupted rest period for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. Moreover, employees did not receive premium pay for the missed rest breaks.

Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512, and Wage Order 5.

B. Andersen Failed to Pay Ms. Quevedo and Other Aggrieved Employees for all Hours Worked, Including Minimum Wage and Overtime, in Violation of California Law

Employer failed to pay Ms. Quevedo and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. When Ms. Quevedo and other aggrieved employees worked shifts of at least eight (8) hours per day, or forty (40) hours per week, all unpaid wages described above in excess of the hours specified herein were required to be compensated at a rate of at least one-and-a-half times each employee's base rate of pay. To the extent such hours exceeded twelve (12) in one day or eight (8) on the seventh consecutive day worked, such hours were required to be compensated at a rate of at least two times each employee's base rate of pay. Ms. Quevedo and other aggrieved employees were often not paid overtime at the appropriate rate. Employer would spread Ms. Quevedo's and the other employee's overtime hours out over other days that they worked, in order to reduce the number of hours that the company had to pay at the overtime and double time rates.

Employer's failure conduct is actionable under PAGA as a violation of Labor Code sections 227.3, 510 and 1194, and Wage Order 5.

C. Andersen Failed to Reimburse Ms. Quevedo and Other Aggrieved Employees for All Necessary Business Expenditures in Violation of California Law

Ms. Quevedo alleges that she and other aggrieved employees were required to clean their logo'd uniforms at their own expense prior to 2019. The employee's uniforms would become heavily soiled as a result of working with dough, pastry creams, frosting, oils, flour, fruit and other baking necessities. Ms. Quevedo also had to sometimes use her personal vehicle to make emergency shopping trips when the bakery ran out of ingredients. Ms. Quevedo was not reimbursed gas or mileage for this travel. Ms. Quevedo and the other aggrieved employees did not receive reimbursement for these out-of-pocket costs from Employer.

Employer's failure to provide complete compensation for all necessary business expenditures incurred by Ms. Quevedo and other aggrieved employees in direct consequence of their duties to Employer is actionable under PAGA as a violation of Labor Code section 2802, and Wage Order 5.

D. Andersen Failed to Provide Ms. Quevedo and Other Aggrieved Employees with Compliant Wage Statements, and Failed to Timely Pay All Wages Owed Upon Severance of Employment, in Violation of California Law

By failing to include on Ms. Quevedo's and other aggrieved employees' pay stubs all rest and meal break premium wages, reimbursement for all necessary business expenditures, and full compensation for all hours worked, Employer failed to keep accurate payroll records and failed to provide Ms. Quevedo and other aggrieved employees with complete and accurate wage statements. This conduct is in violation of Labor Code sections 226 and 1174, and Wage Order 5, and is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, 203, and 204, and Wage Order 5, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended.

E. Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Ms. Quevedo becomes aware of additional compensation owed or losses incurred by Ms. Quevedo or by any other aggrieved employee of the Employer, Ms. Quevedo expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

Mahoney Law Group, APC
Kevin Mahoney
249 E. Ocean Blvd., Suite 814
Long Beach, CA 90802
Tel: (562) 590-5550
Email: kmahoney@mahoney-law.net

Sincerely,

Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC