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UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

MOHAMMED RAHMAN, ALICIA
 NOEMI BAUTISTA DIAZ, AND
 PASCAL MOORE, individually and on
 behalf of all others similarly situated,

Plaintiffs,

v.

GATE GOURMET, INC.,
 GATEGROUP U.S. HOLDING, INC.,
 and DOES 1-10, inclusive,

Defendants.

Case No. 3:20-cv-03047-WHO

**CONSOLIDATED CLASS ACTION
 COMPLAINT FOR:**

1. **FAILURE TO PAY WAGES FOR ALL HOURS WORKED** (Lab.C. §§ 1194, 1194.2, 1197; IWC Wage Order No. 5, § 4(A));
2. **FAILURE TO PAY OVERTIME WAGES** (Lab.C. §§ 510, 1194; IWC Wage Order No. 5, § 3(A)(1));
3. **FAILURE TO PROVIDE MEAL PERIODS** (Lab.C. §§ 226.7, 512; IWC Wage Order No. 5, § 11);
4. **FAILURE TO PROVIDE REST PERIODS PERIODS** (Lab.C. §§ 226.7, IWC Wage Order No. 5, § 11);
5. **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT** (Lab.C. § 204);
6. **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS** (Lab.C. § 226);
7. **WAITING TIME PENALTIES** (Lab.C. §§ 201, 202, 203);
8. **UNFAIR BUSINESS PRACTICES** (Bus. & Prof. Code § 17200, *et seq.*);
9. **INJUNCTION; AND**
10. **PENALTIES UNDER PAGA**

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1 Mohammed Rahman, Alicia Noemi Bautista Diaz, and Pascal Moore (“Named
2 Plaintiffs”) are informed and believe and thereupon alleges the following:

3 **I. INTRODUCTION**

4 1. Named Plaintiffs bring these claims, individually, on behalf of the California
5 Labor and Workforce Development Agency (“LWDA”), and as a class action under Federal
6 Rule of Civil Procedure 23, against defendants Gate Gourmet, Inc. (“Gate Gourmet”) and
7 gategroup U.S. Holding, Inc. (“gategroup”) (Gate Gourmet and gategroup together,
8 “Defendants”).

9 2. Named Plaintiffs bring Causes of Action One through Nine as class action claims
10 pursuant to Federal Rule of Civil Procedure 23. These claims are asserted by Named Plaintiffs
11 in their capacity as class action representatives on behalf of all similarly situated persons (the
12 “Class”). The Class consists of all individuals employed at any Gate Gourmet facility in
13 California as a non-exempt employee at any time during the Class Period. The Class Period is
14 designated as the period from May 4, 2016 through the trial date.

15 3. Named Plaintiffs brings Cause of Action Eight on behalf of the California Labor
16 and Workforce Development Agency (“LWDA”) pursuant to the Private Attorneys General
17 Act of 2004 (“PAGA”) to collect civil penalties arising from Defendants’ labor law violations
18 committed against all Aggrieved Employees. The Aggrieved Employees include all
19 individuals employed at any Gate Gourmet facility in California as a non-exempt employee at
20 any time during the PAGA Period. The PAGA Period is designated as the period from May 5,
21 2019 through the trial date.

22 4. As used herein, “Plaintiffs” means Named Plaintiffs, all members of the Class,
23 and all Aggrieved Employees.

24 5. Plaintiffs have been injured by Defendants’ failure to pay wages, including
25 minimum wages, for all hours worked; failure to pay overtime wages; failure to provide lawful
26 meal periods; failure to provide lawful rest periods; failure to furnish accurate wage
27 statements; failure to pay all wages due at termination of employment; and other unfair and
28 unlawful business practices as described herein.

6. For these injuries, Plaintiffs seek damages and penalties, as well as interest, attorney's fees, costs, and injunctive relief, all under California law, including California Labor Code §§ 201, 202, 204, 223, 226, 226.7, 510, 512, 558, 1174, 1197, 1197.1, 1198, 1199, and § 2698, *et seq.*; IWC Wage Order No. 5, §§ 3, 4, 9, and 11; California Code of Civil Procedure § 1021.5; California Business & Professions Code § 17200, *et seq.*

7. All violations of California law described herein have been ongoing for at least four years prior to the initial filing of this action, are continuing at present, and will continue unless and until enjoined by this Court.

8. Defendants knowingly and intentionally engaged in the conduct complained of herein, and Defendants acted as alleged herein in willful and knowing violation of the law.

II. PARTIES

9. Defendant Gate Gourmet, Inc. is a Delaware Corporation, registered to and conducting business in California, with its principle place of business in Reston, Virginia. Gate Gourmet provides catering and meal preparation services for airlines and operates in or near airports throughout the United States. Gate Gourmet is a wholly-owned subsidiary of Defendant gategroup.

10. Defendant gategroup U.S. Holding, Inc. is a Delaware Corporation with its principal place of business in Reston, Virginia. gategroup owns and controls Defendant Gate Gourmet. Together, Defendants operate all Gate Gourmet facilities in California.

11. Named Plaintiff Mohammed Rahman is a California resident. Mr. Rahman worked as a non-exempt employee in the Gate Gourmet facility located in San Francisco International Airport from approximately January 2014 until approximately March 2020.

12. Named Plaintiff Alicia Noemi Bautista Diaz is a California resident who worked for Defendants in Los Angeles County, California as a dishwasher from approximately April 2017 to February 2020.

13. Named Plaintiff Pascal Moore is a California resident who has worked for Defendants as an hourly non-exempt employee in California from approximately August 9, 2016, through the present.

1 14. Plaintiffs are ignorant of the true names or capacities of Defendants named
2 herein as Does 1 through 10, inclusive, and therefore sue these Defendants by these fictitious
3 names. When the names and capacities of these Defendants are ascertained, Plaintiffs will
4 amend this complaint accordingly. Each of the Defendants named herein or designated as a
5 Doe is liable or in some manner legally responsible for the events alleged herein.

6 **III. JURISDICTION AND VENUE**

7 15. This Court has subject matter jurisdiction of this action under the Class Action
8 Fairness Act, 28 U.S.C. § 1332, in that the estimated damages involved in the claims asserted
9 herein will exceed \$5,000,000, and the parties to this action are residents of different states.

10 16. This Court has personal jurisdiction over Defendants because Defendants have
11 significant contacts with California by virtue of their extensive business operations in
12 California, and Defendants have purposefully availed themselves of the privileges and
13 immunities of conducting business in California.

14 17. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a
15 substantial part of the events or omissions giving rise to the claims asserted herein occurred in
16 this District. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because
17 Defendants are subject to this Court's personal jurisdiction with respect to this civil action and
18 therefore reside in this District pursuant to 28 U.S.C. § 1391(c)(2). Venue is also proper in this
19 Court pursuant to 28 U.S.C. § 1391(d) because Defendants have sufficient contacts in this
20 District to establish personal jurisdiction in this District.

21 **IV. GENERAL ALLEGATIONS**

22 18. Defendants are leading providers of airline catering and provisioning services.
23 Defendants operate at airports throughout the United States and maintain facilities at numerous
24 California airports. Plaintiffs are or were employed as non-exempt employees at Defendants'
25 facilities throughout California.

26 19. At all times during the Class Period and the PAGA Period, Defendants have
27 required, suffered, and/or permitted Plaintiffs to perform work while off the clock, in the form
28 of compensable but uncompensated preliminary and postliminary activities. Those

1 compensable but uncompensated preliminary and postliminary activities include, but are not
2 limited to: Waiting to undergo security searches; Undergoing security searches; Donning and
3 doffing required safety clothing, equipment, and/or uniforms; Undergoing mandatory hand
4 sanitization procedures; Moving between security searches, temperature check locations,
5 locker rooms, sanitation stations, and time clocks; Waiting to undergo temperature checks;
6 Undergoing temperature checks; and Waiting in line to clock in at scheduled start time.

7 Plaintiffs are also subjected to the foregoing while they are clocked out for unpaid
8 periods purported by Defendants to be meal periods. Plaintiffs remain under
9 Defendants' direction and control during these activities. Plaintiffs are not permitted to
10 record their time and are not paid compensation for this time.

11 20. Many of the hours for which Defendants have failed to compensate Plaintiffs by
12 conducting preliminary and postliminary activities off the clock are hours worked over 40
13 hours in a week, over 8 hours in a day, and/or over 12 hours in a day. Accordingly, Plaintiffs
14 are entitled to time and a half and/or double time pay for many of the hours for which
15 Defendants failed to pay compensation.

16 21. At all times during the Class Period and the PAGA Period, Defendants failed to
17 pay Plaintiffs all wages at the applicable minimum and overtime wages for all hours worked
18 due to Defendants' policies, practices, and/or procedures including, but not limited to the
19 following: (1) "rounding" down or "shaving" Plaintiffs' total daily hours at the time of their
20 clock-in and clock-out to the nearest tenth of an hour, to the benefit of Defendants; (2)
21 "rounding" down or "shaving" the time Plaintiffs' clock out and clock in for meal periods to
22 the nearest tenth of an hour, to the benefit of Defendants; (3) following the outbreak of
23 COVID-19, Plaintiffs were required to undergo medical screenings, including but not limited
24 to temperature checks, prior to being permitted to clock in for the start of their shifts; and (4)
25 requiring Plaintiffs to travel off-the-clock to a designated destination to clock in for their shift
26 after going through security checks and medical screenings. Plaintiffs were not paid for this
27 time resulting in Defendants' failure to pay minimum and overtime wages for all the hours
28 Plaintiffs and similarly situated employees worked.

1 22. At all times during the Class Period and the PAGA Period, Defendants have
2 failed to provide Plaintiffs with meal periods of not less than 30 minutes, uninterrupted and
3 relieved of all duties. The preliminary and postliminary activities that Plaintiffs must
4 undertake interrupt Plaintiffs' purported meal periods and result in meal periods of less than 30
5 minutes. Defendants do not pay Plaintiffs one hour of pay for each workday that Defendants
6 fail to provide Plaintiffs meal periods, nor do they pay for the time during putative meal
7 periods during which Plaintiffs are required to undergo security searches.

8 23. At all times during the Class Period and the PAGA Period, Defendants have
9 failed to authorize or permit Plaintiffs one 10-minute rest period relieved of all duty for every
10 four hours worked or major fraction thereof. This is because these preliminary and
11 postliminary activities must be completed during rest breaks for Plaintiffs who wish to leave
12 the facility during their rest breaks. As a result, Plaintiffs are effectively required to remain
13 within Defendants' facilities during their rest breaks, and are never not relieved of all duties.
14 Defendants do not pay the Plaintiffs one hour of pay for each workday that Defendants fail to
15 provide the Plaintiffs compliant rest periods.

16 24. At all times during the Class Period and the PAGA Period, Defendants also
17 require some Plaintiffs to keep on their person company issued radios, or personal cell phones,
18 at all times during their shifts, including meal periods and rest periods, which results in these
19 Plaintiffs not being provided duty-free meal periods and rest periods.

20 25. At all times during the Class Period and the PAGA Period, Defendants have
21 failed to provide Plaintiffs with accurate, itemized wage statements. The wage statements
22 provided by Defendants fail to conform to California law because, *inter alia*, those wage
23 statements do not display the total hours worked and wages earned by Plaintiffs because
24 Plaintiffs are not permitted to record all hours worked, as described herein.

25 26. At all times during the Class Period and the PAGA Period, Defendants have
26 failed to pay all wages due to those Plaintiffs who left their employment with Defendants or
27 were fired by Defendants. During the Class Period, many Plaintiffs resigned from or were
28 terminated by Defendants. Defendants willfully failed to pay said Plaintiffs all wages due

upon termination or within 72 hours of said Plaintiffs' resignation. Defendants failed to pay said Plaintiffs all wages due upon termination or within 72 hours of said Plaintiffs' resignation because, *inter alia*, Plaintiffs are required to work off the clock and are not paid wages for this off-the-clock time, as alleged herein.

27. At all times during the Class Period and the PAGA period, Defendants have failed to pay all wages due on regular paydays by failing to pay Plaintiffs minimum and overtime wages for off-the-clock time, as alleged herein.

28. At all times during the Class Period and the PAGA period, Defendants have violated Labor Code § 223 by paying Plaintiffs less than the promised hourly rate for preliminary and postliminary activities (i.e., nothing at all).

29. At all times during the Class Period and the PAGA period, by engaging in the conduct alleged herein, Defendants have willfully failed to maintain accurate payroll records for Plaintiffs because Plaintiffs' time records and wage statements do not contain the actual hours worked by, wages earned by, and/or wages paid to Plaintiffs.

30. Each violation of California law by Defendants as alleged herein constitutes a separate and distinct unfair and unlawful business practice in violation of California Business & Professions Code § 17200, *et seq.*

31. Named Plaintiffs seeks to enjoin the Defendants' unlawful practices as described herein. Named Plaintiffs have been injured in fact and have lost money and property as a result of these practices, and brings their claims for injunctive relief to prevent further harm to the public at large, who continue to face and suffer harm as a result of Defendants' practices. Named Plaintiffs seeks preliminary and permanent injunctions to prohibit the Defendants' ongoing unlawful acts, which threaten future injury to the public.

V. CLASS ACTION ALLEGATIONS

32. Named Plaintiffs brings this action on behalf of themselves and as a class action pursuant to Federal Rule of Civil Procedure 23.

33. The Class that Named Plaintiffs seeks to represent is defined as follows: All individuals employed at any Gate Gourmet facility in California as a non-exempt employee at

1 any time during the Class Period.

2 34. The claims alleged by Named Plaintiffs may properly be maintained as a class
3 action pursuant to Federal Rule of Civil Procedure 23 because the requirements of that Rule
4 are satisfied with respect to those claims.

5 **A. Numerosity**

6 35. The total number of members of the Class is believed to be in excess of 6,000
7 persons. Accordingly, joinder of all class members would be impractical.

8 **B. Commonality**

9 36. There are numerous questions of law and fact common to the Class. Such
10 questions include, but are not limited to, the following:

11 (1) Whether Defendants, as a matter of common policy, failed to pay
12 Plaintiffs wages, including minimum wages, for all hours worked;

13 (2) Whether Defendants, as a matter of common policy, failed to provide
14 Plaintiffs with legally-sufficient meal periods;

15 (3) Whether Defendants, as a matter of common policy, failed to provide
16 Plaintiffs with legally-sufficient rest periods;

17 (4) Whether Defendants violated Labor Code section 204 by employing
18 Plaintiffs without timely paying them all earned wages during their employment;

19 (5) Whether Defendants' actions as described herein constitute violations of
20 California Business and Professions Code § 17200, *et seq.*;

21 (6) The proper formula for calculating damages and restitution owed to
22 Plaintiffs;

23 (7) Whether Defendants will, unless enjoined, continue the practices alleged
24 herein; and

25 (8) The terms and conditions of the injunction to be issued against
26 Defendants.

27 **C. Typicality**

28 37. Named Plaintiffs' claims are typical of the claims of the Class. Named Plaintiffs

1 and all members of the proposed Class are or were subjected to the same policies and
2 procedures, and their claims arise out of Defendants' common course of conduct and are based
3 on the same legal and remedial theories.

4 **D. Adequacy of Representation**

5 38. Named Plaintiffs will fairly and adequately protect the interests of the Class.
6 Named Plaintiffs have retained competent and capable attorneys who are experienced trial
7 lawyers with significant experience in complex and class action litigation, including
8 employment litigation. Named Plaintiffs and their counsel are committed to prosecuting this
9 action vigorously on behalf of the Class and have the financial resources to do so. Neither
10 Named Plaintiffs nor their counsel have interests that are contrary to or that conflict with those
11 of the Class.

12 **E. Propriety of Certification under FRCP 23(b)(3)**

13 39. Questions of law and fact common to the Class, including the common questions
14 described above, predominate over any questions affecting only individual members.
15 Adjudication of these common issues in a single action has important and desirable advantages
16 of judicial economy. Moreover, there are no unusual difficulties likely to be encountered in
17 the management of this case as a class action. The identity of each member of the proposed
18 Class can be established by uniform records maintained by Defendants.

19 40. The class action mechanism is superior to any alternatives that might exist for the
20 fair and efficient adjudication of these claims. Prosecution of this case as a class action will
21 permit a large number of injured parties to pursue their common claims in a single forum, at
22 the same time, which will promote efficiency, prevent duplication of evidence and efforts, and
23 preserve judicial resources and the resources of the parties. A class action will avoid
24 potentially inconsistent results in numerous individual trials or other judicial actions. Further,
25 class treatment is the only realistic means by which Plaintiffs can effectively litigate against
26 large, well-represented corporate defendants like Defendants here. In the absence of a class
27 action, Defendants will be unjustly enriched by the retention of the fruits and benefits of their
28 unlawful conduct. A multiplicity of repetitive individual actions would also place an enormous

burden on the courts.

F. Propriety of Certification under FRCP 23(b)(2)

41. Class certification is appropriate under FRCP 23(b)(2) because Defendants have acted and/or refused to act, as alleged herein, on grounds generally applicable to the Class, making appropriate declaratory and injunctive relief with respect to the Class as a whole. The Class members are entitled to injunctive relief to end Defendants' common, uniform, and unfair policies and practices as described herein.

VI. CAUSES OF ACTION

**FIRST CAUSE OF ACTION
Failure To Pay Wages for All Hours Worked
(California Labor Code §§ 1194, 1194.2, 1197;
IWC Wage Order No. 5, § 4(A))**

42. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

43. California law, including but not limited to California Labor Code §§ 1194 and 1197 and IWC Wage Order No. 5, § 4(A), requires employers, including Defendants, to pay wages to employees for all hours worked.

44. As alleged herein, Defendants failed to pay Plaintiffs wages, including minimum wages, for all hours worked.

45. As a direct and proximate result of Defendants' refusal to pay Plaintiffs wages for all hours worked, Plaintiffs have sustained damages, including loss of wages, in an amount in excess of the jurisdictional minimum of this Court.

46. Plaintiffs are, therefore, entitled to recover lost wages in an amount according to proof and in excess of the jurisdictional minimum of this Court, and also to recover interest, costs, and attorney's fees as provided by California law.

47. Additionally, Plaintiffs are entitled to recover liquidated damages pursuant to California Labor Code § 1194.2.

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SECOND CAUSE OF ACTION
Failure To Pay Overtime Compensation
(California Labor Code §§ 510, 1194, 1197; IWC Wage Order No. 5, § 3(A)(1))

48. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

49. California law, including but not limited to California Labor Code §§ 510 and 1194, 1197, and IWC Wage Order No. 5, § 3(A)(1), requires employers, including Defendants, to pay employees one and a half times an employee's regular rate of pay for hours worked over 8 in a day, hours worked over 40 in a week, and the first 8 hours worked on the 7th consecutive day of work in a workweek; and to pay employees twice an employee's regular rate of pay for hours worked over 12 in a day, and hours worked over 8 on the 7th consecutive day of work in a workweek.

50. As alleged herein, Plaintiffs worked in excess of 8 and 12 hours per day, 40 hours per week, and/or on the 7th consecutive day of work in a workweek.

51. As alleged herein, Defendants did not pay Plaintiffs overtime compensation as required by California law.

52. As a direct and proximate result of Defendants' failure to pay overtime wages, Plaintiffs have sustained damages, including lost wages, in an amount according to proof at trial and in excess of the jurisdictional minimum of this Court.

53. Plaintiffs are, therefore, entitled to recover lost wages in an amount according to proof and in excess of the jurisdictional minimum of this Court, and also to recover interest, costs, and attorney's fees as provided by California law.

THIRD CAUSE OF ACTION
Failure to Provide Meal Periods
(California Labor Code §§ 226.7 and 512; California IWC Wage Order No. 5, § 11)

54. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

55. California law, including but not limited to California Labor Code §§ 226.7 and 512 and IWC Wage Order No. 5, § 11, requires employers, including Defendants, to provide employees a first meal period of not less than 30 minutes, uninterrupted and relieved of all

1 duties, no later than the end of an employee's 5th hour of work. Additionally, California law,
2 including but not limited to California Labor Code §§ 226.7 and 512 and IWC Wage Order No.
3 5, § 11, requires employers, including Defendants, to provide a second meal period of not less
4 than 30 minutes, uninterrupted and relieved of all duties, no later than the end of an employee's
5 10th hour of work.

6 56. As alleged herein, Defendants failed to provide meal periods to Plaintiffs or to
7 pay compensation in lieu thereof, in violation of California law. Defendants employed
8 policies, practices, and/or procedures that resulted in their failure to authorize or permit meal
9 periods to Plaintiffs of no less than thirty (30) minutes for each five-hour period of work as
10 required by law. Such policies, practices, and/or procedures included, but were not limited to,
11 the following: (1) "rounding" down or "shaving" the time Plaintiffs' clock out and clock in for
12 meal periods to the nearest tenth of an hour, to the benefit of Defendants; (2) requiring
13 Plaintiffs to keep their cell phones with them during all meal periods thereby failing to
14 authorize and permit uninterrupted, duty-free meal periods as required; (3) Plaintiffs regularly
15 suffered from short, late, or missed meal periods in order to complete their work duties; and (4)
16 Plaintiffs regularly suffered from short meal periods because of compensable but unpaid
17 preliminary and postliminary activities performed during their meal periods.

18 57. Additionally, Defendants failed to pay Plaintiffs one (1) hour of pay at their
19 regular rate of pay for each workday they did not receive all legally required and legally
20 compliant meal periods. Defendants lacked a policy and procedure for compensating Plaintiffs
21 with premium wages when they did not receive all legally required and legally compliant meal
22 periods.

23 58. As a direct and proximate result of Defendants' failure to provide Plaintiffs with
24 meal periods or to pay compensation in lieu thereof, Plaintiffs have been injured and have
25 sustained damages, including lost compensation for missed meal periods.

26 59. Plaintiffs are, therefore, entitled to recover lost compensation for missed meal
27 periods in an amount according to proof and in excess of the jurisdictional minimum of this
28 Court, and also to recover interest, costs, and attorney's fees as provided by California law.

FOURTH CAUSE OF ACTION
Failure to Provide Rest Periods
(California Labor Code §§ 226.7 and 512; California IWC Wage Order No. 5, § 11)

60. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

61. California law requires 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. The authorized 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....” Wage Order 5, §12. Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, 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.” Wage Order 5, §12; Labor Code §226.7.

62. Plaintiffs regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally required and compliant rest periods to Plaintiffs. Such policies, practices, and/or procedures included, but were not limited to, the following: (1) requiring Plaintiffs to keep their cell phones with them during all rest periods thereby failing to authorize and permit uninterrupted, duty-free first and second rest periods as required; (2) Plaintiffs regularly suffered from short, late, or missed rest periods in order to complete their work duties; and (3) Plaintiffs could not leave Defendants’ premises during rest periods.

63. Additionally, Defendants failed to pay Plaintiffs one (1) hour of pay at their regular rate of pay for each workday they did not receive all legally required and legally compliant rest periods. Defendants lacked a policy and procedure for compensating Plaintiffs with premium wages when they did not receive all legally required and legally compliant rest periods.

64. Because Defendants failed to provide employees with rest periods in compliance with the law, Defendants are liable to Plaintiffs for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant rest periods, pursuant to Labor Code section 226.7 and the Wage Order.

65. Plaintiffs are, therefore, entitled to recover lost compensation for missed rest periods in an amount according to proof and in excess of the jurisdictional minimum of this Court, and also to recover interest, costs, and attorney's fees as provided by California law.

FIFTH CAUSE OF ACTION
Failure to Timely Pay Earned Wages During Employment
(California Labor Code § 204)

66. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

67. Plaintiffs have been employed by Defendants in the State of California. In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code §204(d).

68. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed to timely pay Plaintiffs' earned wages (including minimum wages, meal period premium

1 wages, rest period premium wages, and/or overtime wages), in violation of Labor Code section
2 204.

3 69. Defendants' aforementioned policies, practices, and/or procedures resulted in
4 their failure to pay Plaintiffs their earned wages within the applicable time frames outlined in
5 Labor Code section 204.

6 70. Defendants' failure to timely pay Plaintiffs their earned wages in accordance
7 with Labor Code section 204 was willful. Defendants had the ability to timely pay all wages
8 earned by hourly workers in accordance with Labor Code section 204, but intentionally
9 adopted policies or practices incompatible with the requirements of Labor Code section 204.
10 When Defendants failed to timely pay Plaintiffs all earned wages, they knew what they were
11 doing and intended to do what they did.

12 71. As a result of Defendants' unlawful conduct, Plaintiffs have suffered damages in
13 an amount subject to proof, to the extent that they were not timely paid their earned wages
14 pursuant to Labor Code section 204.

15 72. Pursuant to Labor Code section 210, Plaintiffs are entitled to recover civil
16 penalties as follows: (1) for any initial violation, one hundred dollars (\$100) for each failure to
17 pay each employee; and (2) for each subsequent violation, or any willful or intentional
18 violation, two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five
19 (25%) percent of the amount unlawfully withheld.

20 **SIXTH CAUSE OF ACTION**
21 **Failure to Furnish Accurate Wage Statements**
22 **(California Labor Code § 226)**

23 73. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
24 forth herein.

25 74. California Law, including but not limited to California Labor Code § 226(a),
26 requires employers, including Defendants, to furnish employees, at the time of payment of
27 wages, accurate, itemized wage statements displaying, among other things, the total hours
28 worked by the employee, gross and net wages earned, and all applicable hourly rates in effect

1 during the pay period and the corresponding number of hours worked at each hourly rate by the
2 employee.

3 75. As alleged herein, the wage statements provided to Plaintiffs by Defendants do
4 not include the information required by California law, including but not limited to California
5 Labor Code § 226(a).

6 76. Plaintiffs' ability to calculate unpaid and miscalculated overtime has been
7 complicated by the absence of information required by Labor Code § 226(a) but missing from
8 the wage statements provided by Defendants.

9 77. As a direct and proximate result of Defendants' failure to provide Plaintiffs with
10 accurate, itemized wage statements, Plaintiffs have encountered substantial difficulty and
11 expense in attempting to reconstruct time and pay records.

12 78. As a direct and proximate result of Defendants' failure to provide Plaintiffs with
13 accurate, itemized wage statements, Plaintiffs have suffered injury and damage to their
14 statutorily protected rights, and have been injured because they were denied both their legal
15 right to receive, and their protected interest in receiving, accurate, itemized wage statements.

16 79. Defendants' failure to provide accurate, itemized wage statements to Plaintiffs is
17 and was knowing and willful.

18 80. Accordingly, Plaintiffs are entitled to recover penalties and damages pursuant to
19 California Labor Code § 226(e), in addition to costs and attorney's fees as provided by
20 California law.

21 **SEVENTH CAUSE OF ACTION**
22 **Waiting Time Penalties**
(California Labor Code §§ 201, 202, 203)

23 81. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
24 forth herein.

25 82. California Labor Code §§ 201 and 202 require employers, including Defendants,
26 to pay employees, upon the termination of employees' employment, all wages due within the
27 time specified by those statutes.
28

83. California Labor Code § 203 provides that where an employer willfully fails to timely pay such wages, the employer must continue to pay the subject employee's wages until back wages are paid in full or an action is commenced, up to a maximum of 30 days of wages.

84. As alleged herein, all members of Plaintiff Class who have terminated or who will terminate their employment with Defendants at any time prior to entry of judgment in this case were not paid all wages owed to them at the time of termination of employment.

85. As a direct and proximate result of Defendants' failure to pay said Plaintiffs all wages when due upon termination of employment, said Plaintiffs have been injured in an amount to be proved at trial.

86. Accordingly, members of the Class who have terminated or who will terminate their employment with Defendants at any time prior to entry of judgment in this case are entitled to payment of thirty days' wages under California Labor Code § 203, and additionally to interest, costs, and attorney's fees.

EIGHTH CAUSE OF ACTION
Restitution - Unfair Business Practices
(California Business & Professions Code § 17200, *et seq.*)

87. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

88. Each violation of California law by Defendants as alleged herein constitutes a separate and distinct unlawful and unfair business practice in violation of California Business & Professions Code § 17200, *et seq.*

89. As a direct and proximate result of Defendants' prohibited unfair and unlawful business practices as alleged herein, Plaintiffs have been injured in an amount to be proved at trial.

90. Plaintiffs are entitled to restitution of all amounts which Defendants were obligated to provide to the members of the Class and which, through the unfair and unlawful practices alleged herein, Defendants did not pay to the members of Class.

91. Plaintiffs are additionally entitled to recovery of interest, costs, and attorney's

1 fees according to law.

2 **NINTH CAUSE OF ACTION**
3 **Injunction**
4 **(California Business & Professions Code § 17200, *et seq.*)**

5 92. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
6 forth herein.

7 93. Each violation of California law by Defendants as alleged herein constitutes a
8 separate and distinct unlawful and unfair business practice in violation of California Business
9 & Professions Code § 17200, *et seq.*

10 94. Plaintiffs have been harmed by Defendants' prohibited unfair and unlawful
11 business practices as alleged herein.

12 95. Defendants have continued to engage in the unfair and illegal practices alleged
13 herein through the present day.

14 96. Unless enjoined by this Court, Defendants will continue to engage in the unfair
15 practices alleged herein.

16 97. Plaintiffs are entitled to, and therefore request, an injunction of this Court
17 requiring that Defendants permanently cease and desist from engaging in the unfair practices
18 alleged herein and, further, that this Court make such orders as are necessary to monitor
19 Defendants' compliance with said injunction.

20 98. Plaintiffs are further entitled to costs and attorney's fees for pursuing the
21 injunction requested herein.

22 **TENTH CAUSE OF ACTION**
23 **Penalties Under PAGA**
24 **(California Labor Code 2698, *et seq.*)**

25 99. Plaintiffs incorporate by reference all preceding paragraphs as though fully set
26 forth herein.

27 100. Named Plaintiffs bring this cause of action under the California Private
28 Attorneys General Act of 2004, Labor Code 2698, *et seq.*, on behalf of themselves and all
Aggrieved Employees.

101. The Aggrieved Employees are defined as follows: All individuals employed at any Gate Gourmet facility in California as a non-exempt employee at any time from May 5, 2019 through the trial date.

102. As described herein, Defendants have violated Labor Code §§ 201, 202, 204, 223, 226, 226.7, 510, 512, 558, 1174, 1197, 1197.1, 1198, and 1199, as well as IWC Wage Order No. 5, §§ 3, 4, and 11, with respect to Named Plaintiffs and all Aggrieved Employees, who have been injured as a result of these violations, and Named Plaintiffs and the Aggrieved Employees are entitled to civil penalties pursuant to Labor Code §§ 203, 210, 225.5, 226, 226.3, 256, 558, 1174.5, 1197.1, 2699(a), 2699(f), and other applicable law.

103. Named Plaintiffs are Aggrieved Employees of Defendants as defined by Labor Code § 2699(c) because they were employed by Defendants, and Defendants' violations of the Labor Code and IWC Wage Order No. 5 as alleged herein were committed against them.

104. Named Plaintiffs have satisfied the requirements of Labor Code § 2699.3 by giving written notice to the Labor and Workforce Development Agency and to Defendants as required by Labor Code § 2699.3(a)(1)(A), paying the filing fee required by Labor Code § 2699.3(a)(1)(B), and waiting the periods prescribed by Labor Code § 2699.3(a)(2)(A) before filing this claim.

105. Accordingly, pursuant to California Labor Code § 2699, Named Plaintiffs are entitled to recover penalties on behalf of themselves and all Aggrieved Employees, and also to recover costs and attorney's fees pursuant to California law, including Labor Code § 2699(g)(1).

VII. PRAYER FOR RELIEF

Wherefore, Named Plaintiffs, on behalf of themselves and all Plaintiffs, pray for relief as follows:

1. That the Court certify this action as a class action on behalf of the Class pursuant to Federal Rule of Civil Procedure 23;
2. That the Court designate Named Plaintiffs as the representatives of the Class;
3. That the Court appoint the law firms Aiman-Smith & Marcy, Moon & Yang, and

1 Lavi & Ebrahimian as Class counsel;

2 4. That Defendants be ordered to pay all amounts owed to the Class arising out of
3 the actions complained of herein, including wages, penalties, interest, and costs;

4 5. That Defendants, at their own expense, be ordered to provide full and adequate
5 notice as required in class actions to all members of the Class;

6 6. That this action and the Class be further designated, respectively, as a
7 representative action and representative class under California Business & Professions Code §
8 17200, *et seq.*;

9 7. That Defendants be ordered to make full restitution of all amounts received
10 and/or retained and/or not paid to Plaintiffs by Defendants pursuant to the California Labor
11 Code, IWC Wage Order No. 5, and California Business and Professions Code § 17200, *et seq.*;

12 8. That, in addition to any constitutionally sufficient notice that is or might
13 otherwise be required in a class action under California law, Defendants be ordered to pay for
14 all necessary efforts to actually locate members of the representative class under Business and
15 Professions Code § 17200, *et seq.*;

16 9. That this Court determine, and provide its declaratory judgment, that the
17 practices complained of herein were done willfully, knowingly, and intentionally;

18 10. That this Court issue a temporary injunction, on terms the Court may deem
19 appropriate and necessary, prohibiting Defendants from engaging in the practices complained
20 of herein pending trial of this action, and requiring Defendants to make appropriate reports to
21 the Court or its appointed agent or expert regarding their compliance with said injunction, and
22 requiring Defendants to pay all costs associated with said monitoring said injunction;

23 11. That this Court issue a permanent injunction, on terms the Court may deem
24 appropriate and necessary, prohibiting Defendants from engaging in the practices complained
25 of herein, requiring Defendants to make appropriate reports to the Court or its appointed agent
26 or expert regarding its compliance with said injunction, and requiring Defendants to pay all
27 costs associated with monitoring said injunction;

28 12. That Defendants be ordered to pay all PAGA penalties arising from their conduct

as alleged herein, to be distributed to the LWDA and the Aggrieved Employees as provided by Labor Code §§ 210, 226.3, 558(a)(3), 1197.1, 2699(i), and other applicable law;

13. For attorney's fees as provided by statutory and common law;

14. For costs of suit incurred; and

15. For such other legal and equitable relief as the Court may deem just and proper.

Dated: June 21, 2022

AIMAN-SMITH & MARCY

/s/ Hallie Von Rock

Hallie Von Rock
Attorneys for Plaintiff Mohammed Rahman

Dated: June 23, 2022

MOON & YANG

/s/ Allen Feghali

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Dated: June 23, 2022

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