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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SONOMA

JEFERSON GARCIA, an individual;
WILSON GARCIA, an individual;
ALICIA RUEDA DE LARA, an individual;
and on behalf of other members of the
general public similarly situated and other
aggrieved employees,

Plaintiffs,

v.

RUSTIC BAKERY, INC., a California
corporation; RUSTIC CAFÉ, INC., a
Delaware corporation; RUSTIC BAKERY
INTERNATIONAL, INC., a Delaware
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: SCV-267534

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR DAMAGES, INJUNCTIVE RELIEF,
AND CIVIL PENALTIES**

1. Failure to Pay Minimum Wages
2. Failure to Pay Overtime Wages
3. Failure to Pay Meal Period Premiums
4. Failure to Pay Rest Period Premiums
5. Failure to Pay Reporting Time Pay
6. Failure to Provide Accurate Itemized Wage Statements
7. Failure to Pay All Wages Due at Separation
8. Failure to Reimburse Necessary Business Expenses
9. Unfair Competition
10. Private Attorneys General Act

DEMAND FOR JURY TRIAL

1 Plaintiffs JEFERSON GARCIA, WILSON GARCIA, ALICIA RUEDA DE LARA
2 (“Plaintiffs”), as individuals, and on behalf of other members of the general public similarly situated
3 and other aggrieved employees, allege and complain against RUSTIC BAKERY, INC. (“Rustic
4 Bakery”), a California corporation, RUSTIC CAFE, INC. (“Rustic Café”), a Delaware corporation,
5 RUSTIC BAKERY INTERNATIONAL, INC. (“Rustic International”), a Delaware corporation, and
6 DOES 1 through 10, inclusive, (collectively referred to as “Defendants”):

7 **INTRODUCTION**

8 1. Plaintiffs bring this First Amended Class and Representative Action Complaint
9 (“FAC”) on behalf of themselves, other aggrieved employees pursuant to the California Labor Code
10 Attorneys General Act of 2004 (“PAGA”), and all other similarly situated current and former non-
11 exempt hourly employees who work or worked in California for Defendants RUSTIC BAKERY,
12 INC., a California corporation, RUSTIC CAFE, INC., a Delaware corporation, RUSTIC BAKERY
13 INTERNATIONAL, INC., a Delaware corporation, and DOES 1 through 10, inclusive.

14 2. This FAC involves Defendants’ systematic failure to comply with the California Labor
15 Code and the applicable Industrial Welfare Commission (“IWC”) Wage Orders, including: IWC Wage
16 Order No. 1, which regulates the manufacturing industry, including non-retail bakeries; IWC Wage
17 Order No. 4, which regulates managerial, supervisory, technical, clerical and mechanical
18 occupations; IWC Wage Order No. 5, which regulates the public housekeeping industry, including
19 bakeries with tables for patrons’ use; and IWC Wage Order No. 7, which regulates the mercantile
20 industry, including retail bakeries.

21 3. At all times relevant to this FAC, Defendants employed Plaintiffs in California and
22 classified them as non-exempt hourly employees.

23 4. At all times relevant to this FAC, Defendants employed many employees in California
24 and classified them as non-exempt hourly employees to operate their business and produce the various
25 food products they sell to patrons.

26 5. Beginning at least four (4) years prior to the filing of this action and continuing through
27 the present (the “Class Period”), Defendants implemented uniform, standardized wage and hour
28 policies and practices that applied to Plaintiffs and other non-exempt hourly employees in California.

6. In implementing these uniform, standardized wage and hour policies and practices, which applied to Plaintiffs and other similarly situated current and former non-exempt employees who work or worked for Defendants in California during the Class Period, Defendants systematically violated the California Labor Code and IWC Wage Orders Nos. 1, 4, 5, and 7 by: (1) failing to pay minimum wages; (2) failing to pay overtime wages; (3) failing to pay meal period premiums; (4) failing to pay rest period premiums; (5) failing to pay reporting time pay; (6) failing to provide accurate itemized wage statements; (7) failing to pay all wages due at separation; (8) failing to reimburse necessary business expenses; and (9) engaging in unfair competition.

7. Seeking redress for Defendants' systematic violations of California's wage and hour laws, Plaintiffs, on behalf of themselves, other aggrieved employees pursuant to the PAGA, and all other similarly situated current and former non-exempt hourly employees who work or worked for Defendants in California during the Class Period, bring this FAC for the recovery of unpaid wages, statutory penalties, equitable relief, and civil penalties under the California Labor Code, IWC Wage Order Nos. 1, 4, 5, and 7, and the California Business & Professions Code.

JURISDICTION AND VENUE

8. Plaintiffs, on behalf of themselves, other aggrieved employees pursuant to the PAGA, and all other similarly situated current and former non-exempt hourly employees who work or worked for Defendants in California during the Class Period, bring this FAC for the recovery of unpaid wages, statutory penalties, equitable relief, and civil penalties under California Labor Code sections 201 to 204, 226, 226.7, 510, 512, 1182.12, 1194 et seq., 1197, 1198, 2802, IWC Wage Order Nos. 1, 4, 5, and 7, and California Business & Professions Code section 17200 et. seq.

9. Plaintiffs bring the class component of this FAC pursuant to California Code of Civil Procedure section 382 because: the consent of all parties cannot be obtained; a question of common or general interest exists; the parties are numerous; and it is impractical to bring all the parties before the court.

10. The monetary damages and restitution sought by Plaintiffs, on behalf of themselves and other similarly situated employees who work or worked for Defendants in California during the Class Period, exceed the minimal jurisdiction limits of the Superior Court of California and will be

1 established according to proof at trial.

2 11. This Court has original jurisdiction over this FAC pursuant to Article VI, Section 10,
3 of the California Constitution, which grants the Superior Court of California “original jurisdiction in
4 all other causes,” except those causes given by statute to other courts. The statutes under which
5 Plaintiffs allege the causes of action in this FAC do not specify any other jurisdictional basis.

6 12. This Court has personal jurisdiction over Defendants because they are residents and/or
7 conduct business in California.

8 13. Venue is proper in the County of Sonoma pursuant to California Code of Civil
9 Procedure section 395.5. At all times relevant to this FAC, the principal place of business for
10 Defendants RUSTIC BAKERY, INC., RUSTIC CAFE, INC., and RUSTIC BAKERY,
11 INTERNATIONAL, INC., was and is located in the County of Sonoma, specifically: 3902 Cypress
12 Drive, Petaluma, California 94945.

13 **PARTIES**

14 14. At all times relevant to this FAC, Plaintiff JEFERSON GARCIA worked as a non-
15 exempt employee for Defendants RUSTIC BAKERY, INC. and RUSTIC CAFE, INC., in California
16 during the Class Period. Defendants RUSTIC BAKERY, INC., and RUSTIC CAFE, INC., employed
17 Plaintiff JEFERSON GARCIA from July 2017 to March 2020.

18 15. At all times relevant to this FAC, Plaintiff WILSON GARCIA worked as a non-exempt
19 employee for Defendants RUSTIC BAKERY, INC., and RUSTIC CAFE, INC., in California during
20 the Class Period. Defendants RUSTIC BAKERY, INC., and RUSTIC CAFE, INC., employed Plaintiff
21 WILSON GARCIA from February 2019 to March 2020.

22 16. At all times relevant to this FAC, Plaintiff ALICIA RUEDA DE LARA worked as a
23 non-exempt employee for Defendants RUSTIC BAKERY, INC., RUSTIC CAFE, INC., and RUSTIC
24 BAKERY INTERNATIONAL, INC., in California during the Class Period. Defendants RUSTIC
25 BAKERY, INC., RUSTIC CAFE, INC., and RUSTIC BAKERY INTERNATIONAL, INC.,
26 employed Plaintiff ALICIA RUEDA DE LARA from November 2015 to the present.

27 17. Defendant RUSTIC BAKERY, INC. is a California Corporation and operates as a
28 manufacturer, producer, and distributor of baked goods and food products. It sells its goods directly

1 to the consumer through its branch of restaurants/cafes, and it also sells its goods at wholesale rates to
2 large businesses. Defendant RUSTIC BAKERY, INC.'s principal place of business is located at: 3902
3 Cypress Drive, Petaluma, California 94945. RUSTIC BAKERY, INC. is the parent company of
4 Defendants RUSTIC CAFE, INC., and RUSTIC BAKERY INTERNATIONAL, INC.

5 18. Defendant RUSTIC CAFE, INC. is a Delaware Corporation and operates as a group of
6 restaurants/cafes selling baked goods and food products. Defendant RUSTIC CAFE, INC.'s principal
7 place of business is located at: 3902 Cypress Drive, Petaluma, California 94945.

8 19. Defendant RUSTIC BAKERY INTERNATIONAL, INC. is a Delaware Corporation
9 and operates as a manufacturer, producer, and distributor of baked goods. Defendant RUSTIC
10 BAKERY INTERNATIONAL, INC.'s principal place of business is located at: 3902 Cypress Drive,
11 Petaluma, California 94945. Defendant RUSTIC BAKERY INTERNATIONAL, INC. is a subsidiary
12 of RUSTIC BAKERY, INC.

13 20. The true names and capacities of defendants DOES 1 through 10 inclusive, whether
14 corporate, associate, individual, or otherwise, are unknown to Plaintiffs and Plaintiffs therefore sue
15 these DOE defendants by fictitious names. On information and belief, each of the DOE defendants is
16 liable for the unlawful acts alleged in this FAC and proximately caused the injuries and damages to
17 Plaintiffs. Once Plaintiffs ascertain the true names and capacities of these DOE Defendants, Plaintiffs
18 will seek leave of court to file an amended pleading.

19 21. At all times relevant to this FAC, Defendants were the "employer" of Plaintiffs within
20 the meaning of all applicable California laws and statutes.

21 22. At all times relevant to this FAC, each of the Defendants were the agents, partners,
22 joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-
23 conspirators and/or assigns, of each of the other Defendants.

24 23. At all times relevant to this FAC, each of the Defendants were acting within the course
25 and scope of their authority as such agents, partners, joint venturers, joint employers, representatives,
26 servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged in
27 this FAC were committed with the ratification, knowledge, permission, encouragement, authorization
28 and/or consent of each alleged DOE Defendant.

1 Plaintiffs further allege Defendants directly or indirectly controlled or affected the working conditions,
2 wages, working hours, and terms of employment of Plaintiffs and Class Members so as to make each
3 of the Defendants liable under the statutory provisions set forth in this FAC as joint employers.

4 **CLASS ALLEGATIONS**

5 24. Plaintiffs bring this FAC on behalf of themselves and all other similarly situated current
6 and former non-exempt hourly employees who work or worked for Defendants in California during
7 the Class Period and who were affected by Defendants' violations of the California Labor Code, IWC
8 Wage Order Nos. 1, 4, 5, and 7, and Business and Professions Code section 17200 et seq.

9 25. Plaintiffs bring the class component of this FAC pursuant to California Code of Civil
10 Procedure section 382 because: the consent of all parties cannot be obtained; a question of common
11 or general interest exists (as defined below); the parties are numerous; and it is impractical to bring all
12 the parties before the court.

13 26. **Relevant Time Period:** The Relevant Time Period is the time period beginning four
14 years prior to the filing of this action until the Court enters judgment.

15 27. **Class Definitions:**

16 a. **Minimum Wage Class:** All of Defendants' current and former non-exempt
17 employees who work or worked in California and who were subject to Defendants' timekeeping
18 policies/practices during the Relevant Time Period.

19 b. **Overtime Class:** All of Defendants' current and former non-exempt
20 employees who work or worked in California and who worked more than eight hours per workday
21 and/or forty hours per workweek and who were subject to Defendants' timekeeping policies and
22 practices during the Relevant Time Period.

23 c. **Meal Period Class:** All of Defendants' current and former non-exempt
24 employees who work or worked in California and who worked at least one shift in excess of five (5.0)
25 hours during the Relevant Time Period.

26 d. **Rest Period Class:** All of Defendants' current and former non-exempt
27 employees who work or worked in California and who worked at least one shift in excess of three and
28 one-half (3.5) hours during the Relevant Time Period.

e. **Reporting Time Class**: All of Defendants' current and former non-exempt employees who work or worked in California, and who were required to report to work, and did work or worked less than half of their usual or scheduled day's work, but were paid less than half of their usual or scheduled wages for a full day's work during the Relevant Time Period.

f. **Wage Statement Penalty Class**: All of Defendants' current and former non-exempt employees who work or worked in California and who received a wage statement from Defendants during the period beginning at least one year before the filing of this action until the court enters final judgment.

g. **Waiting Time Penalty Class**: All of Defendants' non-exempt employees who work or worked in California and who separated from their employment with Defendants during the period beginning three years before the filing of this action until the court enters final judgment.

h. **Business Expenses Reimbursement Class**: All of Defendants' current and former non-exempt employees who work or worked in California and who incurred necessary business expenses during their employment with Defendants and who were not reimbursed by Defendants for those expenses during the Relevant Time Period.

i. **UCL Class**: All members of the: (i) Minimum Wage Class; (ii) Overtime Class; (iii) Meal Period Class; (iv) Rest Period Class; (v) Reporting Time Class; (vi) Wage Statement Penalty Class; (vii) Waiting Time Penalty Class; and (viii) Business Expenses Reimbursement Class.

28. Members of the Classes described above will be collectively referred to as "Class Members" in this FAC.

29. **Numerosity**: The Class Members are so numerous that joinder of all Class Members is impracticable. While Plaintiffs do not currently know the exact number of Class Members, Plaintiffs are informed and believe, and thereupon allege that the actual number exceeds the minimum required for numerosity under California law. The total number and identities of the Class Members can be readily ascertained by inspecting Defendants' employment records.

30. **Commonality and Predominance**: Common legal and factual questions exist for all Class Members and predominate over any questions that affect only individual Class Members. Some of these common legal and factual questions are:

1 a. Whether Defendants had a corporate policy and/or practice of failing to pay
2 their hourly non-exempt employees who work or worked in California for all hours worked;

3 b. Whether Defendants failed to pay minimum wages to Plaintiffs and other
4 Minimum Wage Class Members for all hours worked;

5 c. Whether Defendants failed to pay overtime wages to Plaintiffs and other
6 Overtime Class Members for all overtime hours worked;

7 d. Whether Defendants willfully failed to pay wages, including minimum and
8 overtime wages, without abatement or reduction in accordance with the California Labor Code and
9 IWC Wage Order Nos. 1, 4, 5, and 7;

10 e. Whether Defendants required Plaintiffs and other Overtime Class Members
11 to work over eight (8) hours per workday and/or over forty (40) hours per workweek and failed to pay
12 the legally required overtime wages to Plaintiffs and other Overtime Class Members;

13 f. Whether Defendants had a corporate policy and/or practice of failing to pay
14 Plaintiffs and other Meal Period Class Members and/or other Rest Period Class Members premium
15 pay for non-compliant meal and rest periods (short, late, interrupted, and/or missed altogether) in
16 violation of California law;

17 g. Whether Defendants deprived Plaintiffs and other Meal Period Class
18 Members and/or other Rest Period Class Members of meal and/or rest periods or required Plaintiffs
19 and other Meal Period Class Members and/or other Rest Period Class Members to work during meal
20 and/or rest periods without compensation;

21 h. Whether Defendants had a corporate policy and/or practice of failing to pay
22 Plaintiffs and other Reporting Time Class Members less than half of their wages for a usual or
23 scheduled full day's work when Plaintiffs and other Reporting Time Class Members were required to
24 report to work and in fact reported to work, but did not work or worked less than half of their usual or
25 scheduled day's work;

26 i. Whether Defendants willfully failed to timely pay all wages due to Plaintiffs
27 and other Waiting Time Penalty Class Members;

28 j. Whether Defendants willfully failed to pay all wages due to Plaintiffs and

1 other Waiting Time Penalty Class Members within the required time upon their separation—either
2 discharge or resignation;

3 k. Whether Defendants willfully failed to provide accurate, itemized wage
4 statements to Plaintiffs and Wage Statement Class Members as required by California law;

5 l. Whether Defendants failed to reimburse Plaintiffs and other Business
6 Expenses Reimbursement Class Members for necessary business-related expenses and costs;

7 m. Whether Defendants had a corporate policy and/or practice of deducting
8 from the wages of Plaintiffs and other Minimum Wage Class Members for reasons not authorized by
9 Labor Code section 221 and the applicable IWC Wage Order.

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

12 o. Whether Plaintiffs and Class Members can recover compensatory damages
13 pursuant to the California Labor Code and IWC Wage Order Nos. 1, 4, 5, and 7; and

14 p. The appropriate amount of damages, restitution, and/or monetary penalties
15 resulting from Defendants' violations of California law.

16 31. **Typicality:** Plaintiffs' claims are typical of the claims of other Class Members because
17 of Defendants' policies and/or practices of failing to comply with the California Labor Code, IWC
18 Wage Order Nos. 1, 4, 5, and 7, and the California Business and Professions Code, as alleged in this
19 FAC.

20 32. **Adequacy:** Plaintiffs will fairly and adequately protect the interests of each Class
21 Member, with whom they have a well-defined community of interest and typicality of claims, as
22 alleged in this FAC. Plaintiffs have no interest that is antagonistic to other Class Members. Plaintiffs'
23 attorneys, the proposed class counsel, are versed in the rules governing class action discovery,
24 certification, and settlement. Plaintiffs have and will continue to incur costs and attorneys' fees that
25 have and will necessarily be expended for the prosecution of this FAC and for the substantial benefit
26 of each Class Member.

27 33. **Superiority:** A class action is superior to other available methods for the fair and
28 efficient adjudication of this litigation because individual joinder of all Class Members is impractical.

34. **Public Policy Considerations:** Certification of this FAC as a class action will advance public policy objectives. Employers throughout California regularly violate employment and labor laws. Current employees however are often reluctant to assert their rights individually because of fear of direct and/or indirect retaliation by their employers. Class actions, on the other hand, provide anonymity to Class Members who are not specifically named as Plaintiffs, which in turn facilitates the vindication of their rights without fear of direct and/or indirect retaliation by their employers.

GENERAL ALLEGATIONS

Failure to Pay Minimum Wages

35. At all times relevant to this FAC, Defendants Rustic Bakery, Rustic Café, and Rustic International (hereinafter “Defendants”) had a policy and/or practice of failing to pay Plaintiffs and other Minimum Wage Class Members minimum wages for all hours worked as required by California law. Plaintiffs and other Minimum Wage Class Members therefore worked numerous off-the-clock hours for Defendants during the Class Period without receiving any compensation.

36. Defendants had a policy and/or practice of requiring Plaintiffs and other Minimum Wage Class Member to work off-the-clock hours without receiving any compensation.

37. First, Defendants had a policy and/or practice of failing to provide Plaintiffs and other Minimum Wage Class Members with compliant meal periods. Specifically, Defendants had a policy and/or practice of understaffing its business locations to maximize profits. In lacking sufficient numbers of employees to handle the requisite workload and to provide its workforce with sufficient meal period coverage, Defendants regularly failed to provide them with the legally required opportunities to enjoy compliant meal periods. For example, Defendants regularly required Plaintiffs and other Minimum Wage Class Members to return to work during their meal periods without registering back into the time clock in order to complete various work-related tasks, such as: (1) correcting errors in orders; (2) adding items to orders; and/or (3) assisting with orders that required immediate completion. These interruptions typically lasted between five (5) to ten (10) minutes, but Defendants never compensated Plaintiffs and other Minimum Wage Class Members for this time worked off the clock.

38. Second, because Defendants only had a single time clock at their facilities, Plaintiffs

1 and other Minimum Wage Class Members regularly had their meal periods cut short from the legally-
2 required 30 minutes of time while they waited in line to clock back into work. Because Plaintiffs and
3 other Minimum Wage Class Members took their meal break at the same time, Plaintiffs and other
4 Minimum Wage Class Members spent numerous minutes waiting in line to clock back into work from
5 their meal periods, which resulted in shortened meal periods without receiving compensation for the
6 time spent waiting in lines.

7 39. Third, because Defendants only had a single time clock at their facilities, Plaintiffs and
8 other Minimum Wage Class regularly waited in line to clock into work at the beginning of their shifts.
9 Because Plaintiffs and other Minimum Wage Class Members often clocked into the work at the same
10 time at the start of their shifts, Plaintiffs and other Minimum Wage Class Members spent numerous
11 minutes waiting in lines to clock into work at the beginning of their shifts without receiving any
12 compensation for the time spent waiting in lines.

13 40. Fourth, to minimize payroll costs, Defendants required certain employees, including
14 “Lead” employees, who were responsible for closing down the shift and preparing the facilities for the
15 next shift, to clock out after working eight (8) hours and continue working off the clock. Defendants
16 did not pay these Minimum Wage Class Members compensation for this time worked off-the-clock.

17 41. Fifth, Defendants had a policy and/or practice of failing to pay Plaintiff and other
18 Minimum Wage Class Members for time worked onboarding and attending employee orientation
19 training. Defendants failed to pay Plaintiffs and other Minimum Wage Class Members for time worked
20 performing the following activities: (1) filling out paperwork after being hired; (2) training on how to
21 use Defendants’ time clocks; and (3) training on Defendants’ work practices and expectations.

22 42. Sixth, Defendants had a policy and/or practice of making unlawful deductions from
23 Plaintiffs’ and other Minimum Class Members’ wages. Specifically, Defendants deducted the costs of
24 a uniform deposits from Plaintiff’s and other Minimum Wage Class Members’ final paychecks. These
25 deductions often resulted in Plaintiffs and other Minimum Wage Class Members from receiving
26 minimum wages for all hours worked in violation of California law.

27 43. Seventh, Defendants had a policy and/or practice of failing to pay Plaintiffs and other
28 Minimum Wage Class Members for all time performing work for Defendants during “try-out” periods.

1 Prior to being onboarded as formal employees, Defendants required non-exempt employees to work
2 off-the-clock without being paid. These tryout periods lasted anywhere from several workdays to
3 several workweeks. During those “try-out” periods, Defendants did not consider these workers to be
4 formal employees and did not pay them all owed wages.

5 **Failure to Pay Overtime Wages**

6 44. At all times relevant to this FAC, Defendants had a policy and/or practice of failing to
7 pay all overtime compensation owed to Plaintiffs and other Overtime Class Members as required by
8 California law.

9 45. Defendants had a policy and/or practice of failing to pay Plaintiffs and other Overtime
10 Class Members all overtime compensation for all hours Plaintiffs and other Overtime Class Members
11 worked in excess of eight (8) hours in a workday and/or in excess of forty (40) hours in a workweek.
12 Furthermore, Defendants also consequently failed to pay all double time compensation owed to
13 Plaintiffs and other Overtime Class Members for all hours Plaintiffs and other Overtime Class
14 Members worked in excess of twelve (12) hours in a workday.

15 46. Defendants failed to pay all overtime and double time compensation owed to Plaintiffs
16 and other Overtime Class Members for six reasons: First, as alleged above, Defendants had policy
17 and/or practice of regularly interrupting Plaintiffs’ and other Overtime Class Members’ meal periods
18 without providing them compensation for the time worked off-the-clock. Second, because Defendants
19 only had a single time clock at their facilities, Plaintiffs and other Overtime Class Members spent
20 numerous minutes waiting in line to clock back into work from their meal periods without receiving
21 compensation for the time worked off-the-clock. Third, because Defendants only had a single time
22 clock at their facilities, Plaintiffs and other Overtime Class Members spent numerous minutes waiting
23 in line to clock into work at the start of their shifts without receiving compensation for the time spent
24 waiting in lines. Fourth, Plaintiffs and other Overtime Class Members spent numerous minutes
25 performing post-shift activities after clocking out at the end of their shift. Fifth, Defendants had a
26 policy and/or practice of failing to pay Plaintiffs and other Overtime Class Members for time worked
27 onboarding and attending employee orientation training. Sixth, Defendants had a policy and/or
28 practice of failing to pay Plaintiffs and other Overtime Class Members for all time performing work

1 for Defendants during “try-out” periods. Prior to being onboarded as formal employees, Defendants
2 required non-exempt employees to work off-the-clock without being paid. These tryout periods lasted
3 anywhere from several workdays to several workweeks. During those “try-out” periods, Defendants
4 did not consider these workers to be formal employees and did not pay them all overtime wages.

5 47. Because of these six policies and/or practices, Defendants failed to pay Plaintiffs and
6 other Overtime Class Members all overtime compensation for all hours Plaintiffs and other Overtime
7 Class Members worked in excess of eight (8) hours in a workday and/or in excess of forty (40) hours
8 in a workweek. Furthermore, Defendants Rustic Bakery and Rustic Café also failed to pay Plaintiffs
9 and other Overtime Class Members all double time compensation for all hours Plaintiffs and other
10 Overtime Class Members worked in excess of (12) hours in a workday.

11 **Failure to Pay Premium Pay for Non-Compliant Meal Periods**

12 48. At all times relevant to this FAC, Defendants had a policy and/or practice of failing to
13 provide Plaintiffs and other Meal Period Class Members with compliant meal periods.

14 49. At all times relevant to this FAC, Defendants also had a policy and/or practice of failing
15 to provide Plaintiffs and other Meal Period Class Members with meal period premium pay when
16 Defendants failed to provide Plaintiffs and other Meal Period Class Members with compliant meal
17 periods, as required by California law.

18 50. As alleged above, Defendants have policy and/or practice of consistently understaffing
19 locations, which resulted in a lack of meal break coverage and prevented Plaintiffs and other Meal
20 Period Class Members from taking all timely, complete, and uninterrupted meal periods. Furthermore,
21 Plaintiffs and Meal Period Class Members had to wait for management to authorize them to take their
22 meal periods. Because of Defendants’ practices and/or policies, Plaintiff and other Meal Period Class
23 Members: (1) worked through part or all of their meal periods; (2) had their meal periods interrupted
24 for as much as five to ten minutes by management to correct errors in orders, add items to orders, or
25 help with orders that needed to be completed immediately; (3) had their meal periods shortened
26 because of time spent waiting in lines to clock back into work; and/or (4) waited extended periods of
27 time before being allowed to take “late” meal periods.

28 51. On information and belief, Defendants also failed to provide Plaintiffs and other Meal

1 Period Class Members with second 30-minute meal periods on days that they worked in excess of ten
2 (10) hours in one day.

3 52. Defendants knew or should have known that, as result of their policies and practices,
4 including understaffing their facilities, the layout of their facilities, and the number of time clocks at
5 their facilities, that they failed to provide Plaintiffs and other Meal Period Class Members with timely
6 and compliant first meal periods and second meal periods on days when Plaintiffs and other Meal
7 Period Class Members worked more than ten (10) hours in workday.

8 53. Defendants also knew or should have known that they did not pay Plaintiffs and other
9 Meal Period Class Members meal period premium pay for non-compliant first meal periods and for
10 missed second meal periods.

11 **Failure to Pay Premium Pay for Non-Compliant Rest Periods**

12 54. At all times relevant to this FAC, Defendants had a policy and/or practice of failing to
13 provide Plaintiffs and other Rest Period Class Members with compliant rest periods.

14 55. At all times relevant to this FAC, Defendants also had a policy and/or practice of failing
15 to provide Plaintiffs and other Rest Period Class Members with rest period premium pay when
16 Defendants failed to provide Plaintiffs and other Rest Period Class Members with compliant rest
17 periods.

18 56. As with meal periods, Defendants' policies and practices of understaffing its facilities
19 consistently resulted in insufficient rest period coverage to permit Plaintiffs and other Rest Period
20 Class Members with the opportunities to take rest periods as required by California law. Furthermore,
21 Plaintiffs and other Rest Period Class Members could not take rest periods on their own volition and
22 had to wait for management to authorize them to take them. Because of the pressure to meet demands,
23 management often prevented Plaintiffs and other Rest Period Class Members from taking all complete,
24 uninterrupted, and/or timely (10) minute rest periods.

25 57. Defendants failed to pay Plaintiffs and other Rest Period Class Members rest period
26 premium pay on days that Defendants failed to provide Plaintiffs and other Rest Period Class Members
27 with compliant rest periods as required by California law.

28 **Failure to Pay Reporting Time Pay**

1 58. Defendants had a policy and/or practice of failing to pay Plaintiffs and other Reporting
2 Time Class Members appropriate reporting time pay as required by California.

3 59. On days when Defendants required Plaintiffs and other Reporting Time Class Members
4 to work and when Plaintiffs and other Reporting Time Class Members did in fact work, but were not
5 put to work for at least half of their usual or scheduled day's work, Defendants failed to pay Plaintiffs
6 and other Reporting Time Class Members for at least half of Plaintiffs' and other Reporting Time
7 Class Members' usual or scheduled day's wages.

8 60. On days when Defendants required Plaintiffs and other Reporting Time Class Members
9 to work and Plaintiffs and other Reporting Time Class Members did not work, Defendants failed to
10 pay Plaintiff and other Reporting Time Class Members for at least two hours of work at their regular
11 rate of pay.

12 **Failure to Provide Compliant Wage Statements and Maintain Required Payroll Records**

13 61. Because Defendants had a policy and/or practice of failing to pay Plaintiffs and other
14 Minimum Wage Class Members and other Overtime Class Members for all hours worked and for all
15 overtime hours worked at the correct overtime rate, failing to pay Plaintiffs and other Meal Period
16 Class Members and Rest Period Class Members with premium pay, failing to maintain any records for
17 tryout periods worked for Plaintiffs and other Minimum Wage Class Members and other Overtime
18 Class Members, and failing to pay Plaintiffs and other Reporting Time Class Members for all reporting
19 time pay earned, Defendants derivatively failed to provide Plaintiffs and other Wage Statement
20 Penalty Class Members with accurate itemized wage statements during the Class Period.

21 62. First, Defendants failed to provide Plaintiffs and other Wage Statement Penalty Class
22 Members with accurate itemized wage statements listing all gross wages earned in violation of
23 California Labor sections 226, subdivision (a)(1).

24 63. Second, Defendants failed to provide Plaintiffs and other Wage Statement Penalty
25 Class Members with accurate itemized wage statements listing all net wages earned in violation of
26 California Labor sections 226, subdivision (a)(2).

27 64. Third, Defendants failed to provide Plaintiffs and other Wage Statement Penalty Class
28 Members with accurate itemized wage statements listing all hourly rates in violation of California

1 Labor sections 226, subdivision (a)(9).

2 65. Separately, Defendants had a policy and/or practice of failing to provide Plaintiffs and
3 other Class Members with wage statements during the time they performed work for Defendants
4 during “try-out” periods. During those “try-out” periods, Defendants did not consider these workers
5 to be formal employees and did not provide them with wage statements.

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

7 66. Because Defendants had a policy and/or practice of failing to pay Plaintiffs and other
8 Minimum Wage Class Members and other Overtime Class Members for all hours worked and for all
9 overtime hours worked at the correct overtime rate, failing to pay Plaintiffs and other Meal Period
10 Class Members and Rest Period Class Members with premium pay, and for failing to pay Plaintiffs
11 and other Reporting Time Class Members for all reporting time pay earned, Defendants derivatively
12 failed to pay Plaintiffs and other Waiting Time Class Members their final wages on their last day of
13 employment or within seventy-two (72) hours of resigning without prior notice for at least three years
14 before the filing of this action in violation of California Labor Code sections 201, 202, and 203.

15 **Failure to Reimburse Business Expenses**

16 67. At all times relevant to this FAC, Defendants had policy and/or practice of failing to
17 reimburse Plaintiffs and other Business Expenses Reimbursement Class Members for necessary
18 business expenses in violation of California law.

19 68. At all times relevant to this FAC, Defendants failed to provide Plaintiffs and other
20 Business Expenses Reimbursement Class Members with adequate tools, including non-slip shoes and
21 knives. Plaintiffs and other Business Expenses Reimbursement Class Members instead had to pay out-
22 of-pocket for these necessary expenses. Defendants could have provided Plaintiffs and other Business
23 Expenses Reimbursement Class Members with the actual tools for use on the job. Defendants also
24 could have reimbursed Plaintiffs and other Business Expenses Reimbursement Class Members for
25 out-of-pocket expenses in purchasing tools for use on the job. Instead, Defendants passed these
26 operating costs off onto Plaintiffs and other Business Expenses Reimbursement Class Members in
27 violation of California law.

28 **FIRST CAUSE OF ACTION**

1 **FAILURE TO PAY MINIMUM WAGES**

2 **[Cal. Labor Code, §§ 1182.12, 1194, 1194.2, 1197, 1198; IWC Wage Order Nos. 1, 4, 5, and 7]**

3 **(Brought by All Plaintiffs Against All Defendants)**

4 69. Plaintiffs hereby re-allege and incorporate by reference all previous paragraphs of this
5 FAC.

6 70. California Labor Code sections 1182.12 and 1197, and section 4 of IWC Wage Orders
7 Nos. 1, 4, 5, and 7, require Defendants to pay Plaintiffs and other Minimum Wage Class Members at
8 least the state hourly minimum wage for every hour Defendants required, suffered, or permitted
9 Plaintiffs and other Minimum Wage Class Members to work during the Class Period.

10 71. California Labor Code section 1198 makes unlawful the employment of an employee
11 under conditions the IWC prohibits. California Labor Code sections 1194, subdivision (a), and 1194.2,
12 subdivision (a), provide that an employer that fails to pay its employees the legal minimum wage is
13 liable to the employees for the unpaid balance of the unpaid wages, interest at a rate of 10 percent per
14 annum under California Labor Code section 218.6, and liquidated damages in an amount equal to the
15 unpaid wages.

16 72. At all times relevant time to this FAC, Defendants had a policy and/or practice of failing
17 to pay Plaintiffs and other Minimum Wage Class Members at least the minimum wage for all hours
18 Plaintiffs and other Minimum Wage Class Members worked for Defendants in violation of California
19 Labor Code sections 1182.12, 1194, 1197, including: (1) time that Defendants required, suffered, or
20 permitted Plaintiffs and other Minimum Wage Class Members to work off-the-clock during
21 interrupted meal periods; (2) time that Defendants required, suffered, or permitted Plaintiffs and other
22 Minimum Wage Class Members to work waiting in lines to clock back into work during shortened
23 meal periods; (3) time that Defendants required, suffered, or permitted Plaintiffs and other Minimum
24 Wage Class Members to work waiting in lines to clock into work at the beginning of their shifts; (4)
25 time that Defendants required, suffered, or permitted Plaintiffs and other Minimum Wage Class
26 Members to work off-the-clock performing post-shift duties; (5) time that Defendants required,
27 suffered, or permitted Plaintiffs and other Minimum Wage Class Members to work performing
28 onboarding and training activities; (6) minimum wages denied to Plaintiffs and other Minimum Wage

1 Class Members because Defendants deducted deposits for uniforms from Plaintiffs' and other
2 Minimum Wage Class members' final paychecks; and (7) time spent by Plaintiffs and other Minimum
3 Wage Class Members performing work for Defendants during "try-out" periods.

4 73. Defendants knowingly and willfully failed to pay Plaintiffs and other Minimum Wage
5 Class Members minimum wages for all hours worked for Defendants during the Class Period as
6 required by California law.

7 74. As a direct and proximate result of Defendants' failure to pay Plaintiffs and other
8 Minimum Wage Class Members minimum wages for all hours worked for Defendants as required by
9 California law, Plaintiffs and other Minimum Wage Class Members sustained damages.

10 75. Pursuant to California Labor Code sections 1194, 1194.2, and 1197, Plaintiffs and other
11 Minimum Wage Class Members can recover from Defendants the unpaid balance of their unpaid
12 minimum wages, as well as interest at a rate of 10 percent per annum under California Labor Code
13 section 218.6, costs, liquidated damages in an amount equal to the wages unlawfully unpaid, and
14 attorneys' fees.

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PAY OVERTIME WAGES**

17 **[Cal. Labor Code, §§ 1194 and 1198; IWC Wage Order Nos. 1, 4, 5, and 7]**

18 **(Brought by All Plaintiffs Against All Defendants)**

19 76. Plaintiffs hereby re-allege and incorporate by reference all previous paragraphs of this
20 FAC.

21 77. California Labor Code sections 510, 1194, and 1198, and section 3 of IWC Wage Order
22 Nos. 1, 4, 5, and 7, require Defendants to pay Plaintiffs and other Overtime Class Members overtime
23 wages at the correct overtime rate for all overtime hours Defendants required, suffered, or permitted
24 Plaintiffs and other Overtime Class Members to work during the Class Period.

25 78. California Labor Code section 1198 makes unlawful the employment of an employee
26 under conditions the IWC prohibits. Moreover, California Labor Code section 510 and section 3 of
27 IWC Wage Order Nos. 1, 4, 5, and 7, require employers to pay hourly, non-exempt employees
28 overtime wages at one and-one-half times the employee's regular hourly rate for hours worked in

1 excess of eight (8) hours in a workday or forty (40) hours in a workweek or for the first eight (8) hours
2 worked on the seventh day of work, and to pay overtime wages at double the employee's regular
3 hourly rate for hours worked in excess of twelve (12) hours in a workday or in excess of eight (8)
4 hours in a workday on the seventh day of work. Lastly, pursuant to California Labor Code section
5 1194, subdivision (a), an employee can recover the unpaid balance of all unpaid overtime
6 compensation.

7 79. At all times relevant to this FAC, Plaintiffs and other Overtime Class Members
8 regularly worked overtime hours on a daily and weekly basis.

9 80. At all times relevant to this FAC, Defendants failed to pay overtime wages to Plaintiffs
10 and other Overtime Class Members as required by the California Labor Code section 510 and section
11 3 of IWC Wage Order Nos. 1, 4, 5, and 7 because of the following six policies and/or practices: (1)
12 time that Defendants required, suffered, or permitted Plaintiffs and other Overtime Class Members to
13 work off-the-clock during interrupted meal periods; (2) time that Defendants required, suffered, or
14 permitted Plaintiffs and other Overtime Class Members to work waiting in lines to clock back into
15 work during shortened meal periods; (3) time that Defendants required, suffered, or permitted
16 Plaintiffs and other Overtime Members to work waiting in lines to clock into work at the beginning of
17 their shifts; (4) time that Defendants required, suffered, or permitted Plaintiffs and other Overtime
18 Class Members to work off-the-clock performing post-shift duties; (5) time that Defendants required,
19 suffered, or permitted Plaintiffs and other Overtime Class Members to work performing onboarding
20 and training activities; and (6) time spent by Plaintiffs and other Overtime Class Members performing
21 work for Defendants during "try-out" periods.

22 81. Defendants knowingly and willfully failed to pay Plaintiffs and other Overtime Class
23 Members overtime wages at the correct overtime rate for all overtime hours that Defendants required,
24 suffered, or permitted Plaintiffs and other Overtime Class Members to work during the Class Period.

25 82. As a direct and proximate result of Defendants' failure to pay Plaintiffs and other
26 Overtime Class Members all overtime wages at the correct overtime rate for all overtime hours that
27 Defendants required, suffered, or permitted Plaintiffs and other Overtime Class Members to work
28 during the Class Period, Plaintiffs and other Overtime Class Members sustained damages.

83. Pursuant to California Labor Code section 1194, subdivision (a), Plaintiffs and other Overtime Class Members can recover from Defendants their unpaid overtime compensation, as well as interest thereon at a rate of 10 percent per annum under California Labor Code section 218.6, costs, and attorneys' fees.

THIRD CAUSE OF ACTION

FAILURE TO PAY MEAL PERIOD PREMIUMS

[Cal. Labor Code, § 226.7; IWC Wage Order Nos. 1, 4, 5, and 7]

(Brought by All Plaintiffs Against All Defendants)

84. Plaintiffs hereby re-allege and incorporate by reference all previous paragraphs of this FAC.

85. California Labor Code section 1198 makes unlawful the employment of an employee under conditions the IWC prohibits.

86. California Labor Code section 226.7, subdivision (b), makes it unlawful for employers to require hourly, non-exempt employees to work during any meal period mandated by an applicable IWC Order.

87. California Labor Code section 512 and section 11, subdivision (A), of IWC Wage Order Nos. 1, 4, 5, and 7, prohibit employers from employing a worker for more than five hours without providing a meal period of at least 30 minutes. California Labor Code section 512 also prohibits employers from employing a worker for more than 10 hours without providing a second meal period of at least 30 minutes.

88. California Labor Code section 512, subdivision (a), and section 11, subsection (B) of IWC Wage Order Nos. 1, 4, 5, and 7 also make it unlawful for an employer, like Defendants, to require, suffer, or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that when the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee but only if the first meal period was not waived by the employee.

89. Under California Labor Code section 226.7, subdivision (c), and IWC Wage Order No.

1 section 10, subsection (D), No. 5 section 10, subsection (B), and No. 7 section 11, subsection (D), if an employer fails to provide an employee with a compliant meal period, the employer must pay the employee one hour of pay at the employee's regular rate of pay for each workday that the employer did not provide the employee with a compliant meal period.

90. At all times relevant to this FAC, Defendants failed to provide Plaintiffs and other Meal Period Class Members with meal periods that complied with California Labor Code sections 226.7 and 512 and IWC Wage Order Nos. 1, 4, 5, 7. Because of Defendants' policies and practices of understaffing its facilities, the layout of its facilities, and the limited number of time clocks at their facilities, Plaintiffs and other Meal Period Class Members regularly: (1) worked through part or all of their meal periods; (2) had their meal periods interrupted for as much as five to ten minutes by management to correct errors in orders, add items to orders, or help with orders that required immediate completion; (3) had their meal breaks shortened because of time spent waiting in lines to clock back into work; and/or (4) waited extended periods of time before being allowed to take "late" meal periods. On information and belief, Defendants also failed to provide Plaintiff and other Meal Period Class Members with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day.

91. At all times relevant to this FAC, Defendants failed to pay Plaintiffs and other Meal Period Class Members premium pay when Defendants failed to provide them with compliant meal periods in accordance with California Labor Code sections 226.7 and 512 and IWC Wage Order Nos. 1, 4, 5, and 7.

92. At all times relevant to this FAC, Defendants knowingly and willfully failed to pay Plaintiffs and other Meal Period Class Members premium pay when Defendants failed to provide them with compliant meal periods as required by California law.

93. As a direct and proximate result of Defendants' failure to pay meal period premiums when Defendants failed to provide Plaintiffs and Meal Period Class Member with compliant meal periods, Plaintiffs and other Meal Period Class Members sustained economic damages.

94. Pursuant to California Labor Code section 226.7, subdivision (c), and IWC Wage Order No. 1 section 10, subsection (D), No. 5 section 10, subsection (B), and No. 7 section 10, subsection

(D), Plaintiffs and other Meal Period Class Members can recover from Defendants one additional hour of pay at Plaintiffs' and other Meal Period Class Member's regular hourly rate of pay for each workday that Defendants failed to provide them with a compliant meal period as required by California law, interest thereon at a rate of 7 percent per annum under California Civil Code section 3287, and costs of suit.

FOURTH CAUSE OF ACTION

FAILURE TO PAY REST PERIOD PREMIUMS

[Cal. Labor Code, § 226.7; IWC Wage Order Nos. 1, 4, 5, and 7]

(Brought by All Plaintiffs Against All Defendants)

95. Plaintiffs hereby re-allege and incorporate by reference all previous paragraphs of this FAC.

96. California Labor Code section 1198 makes unlawful the employment of an employee under conditions the IWC prohibits.

97. California Labor Code section 226.7, subdivision (b), prohibits an employer from requiring an employee to work during any rest period required by an applicable IWC Wage Order. Section 12, subsection (A) of IWC Wage Order Nos. 1, 4, 5, and 7 require employers to authorize and permit employees who work three and one half or more hours in a workday to take a paid rest period of at least 10 minutes for every four hours worked or major fraction thereof, which insofar as practicable shall be in the middle of each work period.

98. Under California Labor Code section 226.7, subdivision (c), and section 12, subsection (B), of IWC Wage Order Nos. 1, 4, 5, and 7, if an employer fails to provide an employee with a compliant rest period, the employer must pay the employee one hour of pay at the employee's regular rate of pay for each workday that the employer did not provide a compliant rest period.

99. At all times relevant to this FAC, Defendants failed to provide Plaintiffs and other Rest Period Class Members with rest periods that complied with California Labor Code section 226.7 and IWC Wage Order Nos. 1, 4, 5, and 7. Defendants' policies and practices of understaffing their facilities regularly resulted in insufficient rest period coverage to permit Plaintiffs and other Rest Period Class Members with the requisite opportunities to take rest periods as required by California law.

1 Furthermore, Plaintiffs and other Rest Period Class Members could not take rest periods on their own
2 volition and had to wait for management to authorize them to take them. Because of the pressure to
3 meet warehouse demands, Defendants' management frequently prevented Plaintiffs and other Rest
4 Period Class Members from taking all complete, uninterrupted, and/or timely (10) minute rest periods.

5 100. At all times relevant to this FAC, Defendants failed to provide Plaintiffs and other Rest
6 Period Class Members with premium pay as required by California Labor Code section 226.7 when
7 Defendants failed to provide them with compliant rest periods in accordance with California Labor
8 Code sections 226.7 and 512 and IWC Wage Order Nos. 1, 4, 5, and 7.

9 101. At all times relevant to this FAC, Defendants knowingly and willfully failed to pay
10 Plaintiffs and other Rest Period Class Members premium pay when Defendants failed to provide them
11 with compliant rest periods as required by California law.

12 102. As a direct and proximate result of Defendants' failure to pay premium pay when
13 Defendants failed to provide Plaintiffs and Rest Period Class Members with compliant rest periods as
14 required by California law, Plaintiffs and other Rest Period Class Members sustained economic
15 damages.

16 103. Pursuant California Labor Code section 226.7, subdivision (c), and section 11,
17 subsection (B), of IWC Wage Order Nos. 1, 4, 5, and 7, Plaintiffs can recover from Defendants one
18 additional hour of pay at the Plaintiffs' and other Rest Period Class Member's regular hourly rate of
19 pay for each workday that Defendants failed to provide Plaintiffs and other Rest Period Class Members
20 with a compliant rest period as required by California law, including interest thereon at a rate of 7
21 percent per annum under California Civil Code section 3287, and costs of suit.

22 **FIFTH CAUSE OF ACTION**

23 **FAILURE TO PAY REPORTING TIME PAY**

24 **[Cal. Labor Code, § 1198; IWC Wage Order Nos. 1, 4, 5, and 7]**

25 **(Brought by All Plaintiffs Against All Defendants)**

26 104. Plaintiffs hereby re-allege and incorporate by reference all previous paragraphs of this
27 FAC.

28 105. California Labor Code section 1198 makes unlawful the employment of an employee

1 under conditions the IWC prohibits.

2 106. Section 5, subsection (A), of IWC Wage Orders Nos. 1, 4, 5, and 7 provide: "Each
3 workday an employee is required to report for work and does report, but is not put to work or is
4 furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for
5 half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four
6 (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage."

7 107. At all times relevant to this FAC, Defendants failed to provide Plaintiffs and other
8 Reporting Time Class Members with appropriate reporting time pay.

9 108. On days when Defendants required Plaintiffs and other Reporting Time Class Members
10 to work and Plaintiffs and other Reporting Time Class Members did in fact work, but were not put to
11 work for at least half of their usual or scheduled day's work, Defendants failed to pay Plaintiffs and
12 other Reporting Time Class Members for half of Plaintiffs' and other Reporting Time Class Members'
13 usual or scheduled days' wages.

14 109. On days when Defendants required Plaintiffs and other Reporting Time Class Members
15 to work and Plaintiffs and other Reporting Time Class Members did not work, Defendants failed to
16 pay Plaintiff and other Reporting Time Class Members for at least two hours of work at their regular
17 rate of pay.

18 110. Defendants knowingly and willfully failed to pay Plaintiffs and other Reporting Time
19 Class Members all reporting time pay during the Class Period.

20 111. As a direct and proximate result of Defendants' failure to pay Plaintiffs and other
21 Reporting Time Class Members all reporting time pay, Plaintiffs and other Reporting Time Class
22 Members sustained damages.

23 112. Pursuant to California Labor Code section 1198 and, section 5, subsection (A), of IWC
24 Wage Orders Nos. 1, 4, 5, and 7, Plaintiffs and other Reporting Time Class Members can recover from
25 Defendants their unpaid reporting time pay as well as interest thereon at a rate of 10 percent per annum
26 under California Labor Code section 218.6, costs, and attorneys' fees.

27 **SIXTH CAUSE OF ACTION**

28 **FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS**

[Cal. Labor Code, § 226; IWC Wage Order Nos. 1, 4, 5, and 7]

(Brought by All Plaintiffs Against All Defendants)

113. Plaintiffs hereby re-allege and incorporate by reference all previous paragraphs of this FAC.

114. California Labor Code section 226, subdivision (a), requires employers to provide to their employees, on a semimonthly basis or at time the employer pays wages, with an accurate itemized wage statement in writing detailing the following information: (1) gross wages earned; (2) total hours worked by the employee ; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all a deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and his or her social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

115. Section 7, subsection (B) of IWC Wage Orders Nos. 1, 4, 5, and 7 similarly require employers to provide their employees, on a semimonthly basis or at time of the employer pays wages, with an accurate itemized wage statement in writing detailing the following information: all deductions; the inclusive dates of the period for which the employee is paid; the name of the employee or the employee's social security number; and the name of the employer.

116. California Labor Code section 226, subdivision (e), provides that an employee who suffers injury as a result of a knowing and intentional failure by an employer to comply with section 226, subdivision (a), may recover the greater of actual damages or the statutory penalty of fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000).

117. California Labor Code section 226, subdivision (e)(2)(B), provides that an employee is deemed to suffer injury if the wage statement fails to accurately and completely provide certain information and the employee cannot promptly and easily determine such information from the wage

1 statement alone. In relevant part, California Labor Code section 226, subdivision (e)(2)(B), provides
2 that an employee is deemed to suffer injury if the wage statement does not accurately and completely
3 state the total number of hours worked by the employee, all applicable hourly rates in effect during
4 the pay period, and the corresponding number of hours worked at each hourly rate.

5 118. Because Defendants had a policy and/or practice of failing to pay Plaintiffs and other
6 Minimum Wage Class Members and other Overtime Class Members for all hours worked and for all
7 overtime hours worked at the correct overtime rate, failing to pay Plaintiffs and other Meal Period
8 Class Members and Rest Period Class Members with premium pay, and failing to pay Plaintiffs and
9 Reporting Time Class Members for all reporting time pay earned, Defendants intentionally and
10 willfully failed to provide Plaintiffs and other Wage Statement Penalty Class Members with accurate
11 itemized wage statements as required by California law.

12 119. First, Defendants failed to provide Plaintiffs and other Wage Statement Penalty Class
13 Members with accurate itemized wage statements listing all gross wages earned in violation of
14 California Labor sections 226, subdivision (a)(1).

15 120. Second, Defendants failed to provide Plaintiffs and other Wage Statement Penalty
16 Class Members with accurate itemized wage statements listing all net wages earned in violation of
17 California Labor sections 226, subdivision (a)(2).

18 121. Third, Defendants failed to provide Plaintiffs and other Wage Statement Penalty Class
19 Members with accurate itemized wage statements listing all hourly rates in violation of California
20 Labor sections 226, subdivision (a)(9).

21 122. Because Defendants had a policy and/or practice of failing to pay Plaintiffs and other
22 Minimum Wage Class Members and other Overtime Class Members for all hours worked and for all
23 overtime hours worked at the correct overtime rate, failing to pay Plaintiffs and other Meal Period
24 Class Members and Rest Period Class Members with premium pay, and for failing to pay Plaintiffs
25 and other Reporting Time Class Members for all reporting time pay earned, Defendants derivatively
26 failed to provide Plaintiffs and other Wage Statement Penalty Class Members with accurate itemized
27 wage statements during the Class Period.

28 123. Separately, Defendants had a policy and/or practice of failing to provide

1 Plaintiffs and other Class Members with wage statements during the time they performed work for
2 Defendants during “try-out” periods. During those “try-out” periods, Defendants did not consider
3 these workers to be formal employees and did not provide them with wage statements.

4 124. As a direct and proximate result of Defendants’ failure to provide Plaintiffs and other
5 Wage Statement Penalty Class Members with accurate itemized wage statements as required by
6 California law, Plaintiffs and other Wage Statement Penalty Class suffered injury and damages.

7 125. Specifically, Plaintiffs and other Wage Statement Penalty Class Members were injured
8 by Defendants’ intentional violation of California Labor Code section 226, subdivision (a), because
9 they were denied both their legal right and interest in receiving accurate, itemized wage statements
10 under California Labor Code section 226, subdivision (a). Plaintiffs and other Wage Statement Penalty
11 Class Members were injured by Defendants’ intentional violation of California Labor Code section
12 226, subdivision (a), because it has caused confusion over whether they received from Defendants all
13 of the wages owed to them, in addition to their difficulty and expense in reconstructing pay records
14 and making mathematical computations to analyze whether the wages paid to them did in fact
15 compensate them for all hours worked.

16 126. Plaintiffs and other Wage Statement Penalty Class Members can recover from
17 Defendants the greater of their actual damages caused by Defendants’ failure to comply with
18 California Labor Code section 226, subdivision (a), or an aggregate penalty not exceeding four
19 thousand dollars per employee, reasonable attorneys’ fees, and costs of suit.

20 127. California Labor Code section 226, subdivision (h), authorizes courts to issue
21 injunctive relief to remedy violations of section 226, subdivision (a). Plaintiffs and other Wage
22 Statement Penalty Class Members can obtain injunctive relief enjoining Defendants: (i) to
23 immediately begin providing Plaintiffs and other members of Wage Statement Penalty Class itemized
24 wage statements containing all of the information required by California Labor Code section 226,
25 subdivision (a); and (ii) to immediately provide all Plaintiffs and other members of the Wage
26 Statement Penalty Class the information required by California Labor Code section 226, subdivision
27 (a), dating back to those employees’ beginning of employment or to the start of the applicable
28 limitations period, whichever is further back in time.

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1 135. Plaintiffs and other Waiting Time Penalty Class Members can recover from Defendants
2 the statutory penalty wages for each calendar day they were not paid their owed compensation, up to
3 a thirty (30) day maximum pursuant to California Labor Code section 203.

4 **EIGHTH CAUSE OF ACTION**

5 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

6 **[Cal. Labor Code, § 2802; IWC Wage Order Nos. 1, 4, 5, and 7]**

7 **(Brought by All Plaintiffs Against All Defendants)**

8 136. Plaintiffs and other Class Members re-allege and incorporate by reference all previous
9 paragraphs of this FAC.

10 137. California Labor Code sections 2802, subdivision (a), requires employers to reimburse
11 their employees for all necessary expenditures incurred by their employees in direct consequence of
12 the discharge of their job duties or in direct consequence of their obedience to the directions of the
13 employer.

14 138. Section 9, subsection (B), of IWC Wage Order Nos. 1, 4, 5, and 7, provide: “When the
15 employer requires the use of tools or equipment or they are necessary for the performance of a job,
16 such tools and equipment shall be provided and maintained by the employer, except that an employee
17 whose wages are at least two (2) times the minimum wage may provide and maintain hand tools and
18 equipment customarily required by the particular trade or craft in conformity with Labor Code Section
19 2802.”

20 139. At all times relevant to this FAC, Defendants failed to provide Plaintiffs and other
21 Business Expenses Reimbursement Class Members all tools, supplies and equipment necessary to
22 perform their job duties including, but not limited to: non-slip shoes and knives.

23 140. By requiring Plaintiffs and other Business Expenses Class Members to pay for work-
24 related expenses without reimbursement, even though Plaintiffs’ and other Business Expenses
25 Reimbursement Class Members’ wages were not at least twice the minimum wage, Defendants
26 violated California Labor Code section 2802 and section 8 IWC Wage Order Nos. 1, 4, 5, and 7.

27 141. Defendants knowingly and willfully failed to reimburse Plaintiffs and other Business
28 Expenses Reimbursement Class Members for all necessary work-related expenses and costs.

142. As a direct and proximate result of Defendants' failure to reimburse Plaintiffs and other Business Expenses Reimbursement Class Members for all necessary work-related expenses and costs as required by California law, Plaintiffs and other Business Expenses Reimbursement Class Members sustained damages.

143. Pursuant to California Labor Code section 2802, subdivision (c), Plaintiffs and other Business Expenses Reimbursement Class Members can recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment plus interest accrued from the date on which they incurred the necessary expenditures at a rate of 7 percent per annum per California Civil Code section 3287, reasonable attorneys' fees, and costs of suit.

NINTH CAUSE OF ACTION

UNFAIR AND UNLAWFUL BUSINESS PRACTICES

[Cal. Business & Professions Code, §§ 17200 et seq.]

(Brought by All Plaintiffs Against All Defendants)

144. Plaintiffs and other Class Members re-allege and incorporate by reference all previous paragraphs of this FAC.

145. As alleged in this FAC, Defendants' conduct, has been, and continues to be, unfair, unlawful, and harmful to Plaintiffs, other UCL Class Members, and to the general public. Plaintiffs and other UCL Class Members seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

146. As alleged in this FAC, Defendants' actions violate California law and constitute unlawful business acts and practices in violation of California Business & Professions Code sections 17200 et seq.

147. A violation of California Business & Professions Code section 17200 et seq. may be predicated on the violation of any state or federal law. In the present case, Defendants' policy and/or practice of failing to pay all regular, overtime, double-time wages owed to Plaintiffs and other UCL Class Members violates California Labor Code sections 1194 and 1198 and IWC Wage Order Nos. 1, 4, 5, and 7; Defendants' policy and/or practice of not providing Plaintiffs and other UCL Class Members with meal and rest period premiums for workdays that Plaintiffs and other UCL Class

Members did not receive compliant meal and rest periods violates California Labor Code sections 226.7 and 512, subdivision (a), and IWC Wage Order Nos. 1, 4, 5, and 7; Defendants' policy and practice of not paying all reporting time pay violates California Labor Code section 1198 and IWC Wage Orders Nos., 1, 4, 5, and 7; Defendants' policy and/or practice of not timely paying all wages owed to Plaintiffs and Class Members upon resignation or termination violates California Labor Code sections 201, 202, and 203; Defendants' policy and/or practice of not fully reimbursing Plaintiffs and Class Members for necessary work-related expenses and costs incurred during their employment violates California Labor Code sections 2800 and 2802 and IWC Wage Order Nos. 1, 4, 5, and 7; and Defendants' policy and/or practice of failing to provide accurate itemized wage statements violates California Labor Code section 226 and IWC Wage Order Nos. 1, 4, 5, and 7.

148. As alleged in this Complaint, Defendants' unlawful business acts and practices, involve, but not necessarily limited to the loss of money and/or property.

149. Because of Defendants violations of the California Labor Code and IWC Wage Order Nos. 1, 4, 5, and 7, Plaintiffs and other UCL Class Members sustained damages and/or injuries.

150. Pursuant to California Business & Professions Code sections 17200 et seq., Plaintiffs and other UCL Class Members can recover from Defendants restitution in the amount of the wages unlawfully withheld and retained by Defendants during the Class Period; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiffs and other UCL Class Members; costs; and attorneys' fees pursuant to California Code of Civil Procedure section 1021.5.

TENTH CAUSE OF ACTION

VIOLATION OF PRIVATE ATTORNEYS GENERALS ACT OF 2004 ("PAGA")

[Cal Labor Code, §§ 2698, et seq.]

(Brought by All Plaintiffs Against All Defendants)

151. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

152. As alleged in this Class and Representative Action Defendants have committed several violations of the Labor Code against Plaintiffs, Class Members, and other aggrieved employees.

153. Plaintiffs on behalf of themselves and other "aggrieved employees" under the PAGA bring this representative component of this Class and Representative Action against Defendants to

1 recover the civil penalties owed to Plaintiffs, Class Members, other aggrieved employees, and the
2 State of California under California Labor Code section 2699, subdivisions (a) and (f). The civil
3 penalties sought include: (1) \$100.00 for each initial violation for each failure to timely pay each
4 employee and \$200.00 for each subsequent violation or willful or intentional violation for each failure
5 to timely pay each employee, plus 25 percent of the amount unlawfully withheld, pursuant to
6 California Labor Code section 210; (2) \$100.00 for each initial violation and \$250.00 for each
7 subsequent violation of a failure to pay minimum wages pursuant to Labor Code section 1197.1; (3)
8 \$250.00 for each initial violation and \$1,000.00 for each subsequent violation of a failure to provide
9 an accurate itemized wage statement per employee per pay period pursuant to Labor Code section
10 226.3; (4) \$50.00 for each initial violation for each underpaid employee for each pay period for which
11 the employee was underpaid in addition to an amount sufficient to recover underpaid wages and
12 \$100.00 for each underpaid employee for each pay period for which the employee was underpaid in
13 addition to an amount sufficient to recover underpaid wages pursuant to Labor Code section 558; (5)
14 \$500 for failure to maintain accurate and complete records required by Labor Code section 1174;
15 and/or (6) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee
16 per pay period for those violations of the Labor Code for which no civil penalty is specifically
17 provided, based on the following Labor Code violations:

18 a. Defendants violated Labor Code sections 204, 510, 558, 1194, and 1198 by
19 failing to pay Plaintiffs and other aggrieved employees all overtime compensation earned;

20 b. Defendants violated Labor Code sections 1194, 1194.2, and 1197 by failing
21 to pay Plaintiffs and other aggrieved employees the statutory minimum wage for all hours worked;

22 c. Defendants violated Labor Code sections 226.7, 512, 516, and 558 by
23 failing to authorize and permit all legally required meal and rest periods and failing to pay meal and
24 rest period premiums to Plaintiffs and other aggrieved employees;

25 d. Defendants violated Labor Code section 1198 by failing to pay Plaintiff and
26 other aggrieved employees with all reporting time pay earned;

27 e. Defendants violated Labor Code section 226 by failing to furnish Plaintiffs
28 and other aggrieved employees with accurate and compliant itemized wage statements;

1 f. Defendants violated Labor Code section 204 by failing to pay Plaintiffs and
2 other aggrieved employees all earned wages at least twice during each calendar month;

3 g. Defendants violated Labor Code section 1174 by failing to maintain
4 accurate records on behalf of Plaintiffs and other aggrieved employees;

5 h. Defendants violated Labor Code sections 201, 202 and 203 by failing to
6 timely pay all final wages due to Plaintiffs and other aggrieved employees; and

7 i. Defendants violated Labor Code section 2802 by failing to indemnify
8 necessary expenditures due to Plaintiffs and other aggrieved employees.

9 On August 5, 2020, counsel for Plaintiffs notified Defendants via certified mail, and notified
10 the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’
11 violations of the California Labor Code and Plaintiffs’ intent to bring a claim for civil penalties under
12 California Labor Code section 2698 et seq. with respect to above violations of the California Labor
13 Code. A true and correct copy of Plaintiffs’ letter is attached hereto as **Exhibit 1**. Now that at least
14 sixty-five days have passed from Plaintiffs notifying Defendants and the LWDA of these violations
15 and the LWDA has not provided notice that it intends to investigate the violations, Plaintiffs have
16 exhausted their administrative requirements for bringing a claim under the PAGA with respect to these
17 violations.

18 **REQUEST FOR JURY TRIAL**

19 154. Plaintiffs, on behalf of themselves and other aggrieved employees and Class Members
20 hereby demand a jury trial on all triable causes of action.

21 **PRAYER FOR RELIEF**

22 155. WHEREFORE, Plaintiffs, on behalf of themselves and other aggrieved employees and
23 Class Members pray for the following relief and judgment:

- 24 a. For an order certifying this action as a class action;
- 25 b. For appointment of Plaintiffs JEFERSON GARCIA, WILSON GARCIA
26 and ALICIA RUEDA DE LARA as the class representatives;
- 27 c. For appointment of Macias Rodriguez Adams LLP as class counsel for all
28 purposes;

1 d. An award for compensatory damages including, but not limited to, lost and
2 unpaid minimum, overtime, and double time wages, and unreimbursed necessary expenditures and/or
3 losses incurred in direct consequence of their duties;

4 e. An award for meal period premiums for non-compliant meal periods,
5 pursuant to California Labor Code section 226.7, subdivision (c), and IWC Wage Order No. 1 section
6 10, subsection (D), No. 5 section 10, subsection (B), and No. 7 section 10, subsection (D);

7 f. An award for rest period premiums for non-compliant rest periods, pursuant
8 to California Labor Code section 226.7, subdivision (c), and section 11, subsection (A) of IWC Wage
9 Order Nos. 1, 4, 5, and 7;

10 g. An award for statutory penalties provided by law, including, but not limited
11 to, those in California Labor Code sections 203 and 226, subdivision (e);

12 h. An award for liquidated damages pursuant to California Labor Code section
13 1194.2, in an amount equal to the unpaid minimum wages;

14 i. Restitution of all amounts owed, pursuant to California Business &
15 Professions Code section 17200 et seq, including minimum, overtime, and double time wages and
16 interest thereon.

17 j. Disgorgement of profits and all other appropriate equitable relief authorized
18 by California Business & Professions Code section 17203;

19 k. Civil penalties authorized by the Private Attorneys General Act of 2004 in
20 Labor Code section 2699, subdivisions (a) and (f).

21 l. Attorneys' fees and litigation expenses pursuant to Labor Code sections
22 218.5, 226, subdivision (h), 1194, subdivision (a), 2802, 2699, subdivision (g)(1), and California Code
23 of Civil Procedure section 1021.5, and such other provisions as may be applicable;

24 m. Pre-judgment and post-judgment interest on all sums awarded;

25 n. Costs of suit; and

26 o. For such other and further relief as is equitable, just and proper.

27
28 Dated: November 29, 2023

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ALICIA RUEDA DE LARA

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EXHIBIT 1
NOTICE TO LWDA OF CALIFORNIA LABOR CODE VIOLATIONS



Macías Rodríguez LLP
— ATTORNEYS AT LAW —

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San Jose, CA 95126

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August 5, 2020

VIA ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

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

VIA CERTIFIED MAIL

Rustic Bakery, Inc.
ATTN: Carol Ann Le Valley
771 Rowland Boulevard
Novato, CA 94945

Rustic Bakery International, Inc.
ATTN: Carol Ann Le Valley
3902 Cypress Drive
Petaluma, CA 94954

Rustic Cafe, Inc.
ATTN: Carol Ann Le Valley
1139 Magnolia Avenue
Larkspur, CA 94939

**Re: NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT (CALIFORNIA LABOR CODE SECTION 2699.3)**

Dear Administrator:

This office represents Jeferson Garcia and Wilson Garcia ("Claimants") in connection with their claims under the California Labor Code. Claimants were employees of Rustic Bakery, Inc., Rustic Bakery International, Inc., and Rustic Cafe, Inc. ("Respondents").

Claimants intend to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698 et seq., the Private Attorneys General Act of 2004 ("PAGA"). Claimants seek relief on behalf of themselves, the State of California, and other persons who were employed by Respondents in California as non-exempt, hourly-paid employees and who received at least one wage statement during the relevant statutory time period ("aggrieved employees"). This letter is sent in accordance with the notice and reporting requirements of California Labor Code section 2699.3.

Respondents employed Claimants as non-exempt, hourly-paid food preparers during the past two years and recently terminated their employment in March 2020. Throughout their employment,

Claimants worked for Respondents at a café and production facility located at: 1407 Grant Avenue, Novato, CA 94945. Claimants regularly worked more than eight (8) hours per day and more than forty (40 hours) per week. Claimant's job duties included: preparing and packaging salads, sandwiches and soups, as well as, baking and packaging various pastries and breads. Some of the food and baked items Claimants would prepare and package were sent to other cafés, and/or were packaged for delivery to Respondents' domestic and international customers.

During Claimants' employment, Respondents committed one or more of the following Labor Code violations against Claimants, the facts and theories of which are detailed below, making them "aggrieved employees" under California Labor Code section 2699, subdivision (c).

Respondents' Uniform Payroll and Human Resources Practices

Respondents are an integrated enterprise operating a chain of cafés and an international wholesale business geared to the wholesale distribution of artisan products and handcrafted baked goods. Respondents' cafés are located in the cities of Larkspur, Novato, and Tiburon, California. Respondents' production bakeries are located in the cities of Petaluma and Novato, California.

Respondents' principal place of business and corporate headquarters is located at: 3902 Cypress Drive, Petaluma, California 94594. At their corporate headquarters, Respondents operate their primary large production bakery. Respondents also operate a secondary production bakery in the city of Novato, California, located at: 1407 Grant Avenue, Novato, California 94945.

Upon information and belief, Respondents have a centralized human resources (HR) department at their corporate headquarters in Petaluma, California, which implements uniform, standardized policies and practices affecting all of their non-exempt, hourly-paid employees in California, including Claimants and other aggrieved employees. At all relevant times, Respondents issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid employees in California, including Claimants and other aggrieved employees, regardless of their location or position.

Upon information and belief, Respondents also maintain a centralized payroll department at their corporate headquarters in Petaluma, California, which processes payroll for all non-exempt, hourly-paid employees working for Respondents in California, including Claimants and other aggrieved employees. In addition, Respondents issue the same uniform and formatted wage statements to all nonexempt, hourly-paid employees in California, regardless of their location, position, or manner in which each employee's employment ended. Respondents' centralized payroll department processed payroll for non-exempt, hourly-paid employees in the same manner throughout California. As such, Respondents used the same methods and formulas for calculating wages due to Claimants, and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 - Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees who work more than eight (8) hours in a workday or more than forty (40) hours in a workweek at the rate of one and a half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours in a day or in

excess of forty (40) hours in a workweek. The applicable IWC Wage Order also provides that employers are required to pay employees, who work more than twelve (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all compensation for employment paid to, or on behalf of, the employee, including non-discretionary bonuses and incentive pay.

Respondents willfully failed to pay all overtime compensation owed to Claimants and other aggrieved employees. During the relevant time period, Claimants and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day and/or in excess of forty (40) hours in a week.

First, Respondents had, and continue to have, a company-wide policy and/or practice of not paying the proper rate of overtime pay, as required by California law, anytime Claimants or other aggrieved employees worked more than eight (8) hours in one day or more than forty (40) hours in one week. Unpaid overtime pay due to Claimants and aggrieved employees includes time waiting in line to clock in at the beginning of their shifts that was not compensated by Respondents.

Second, Respondents have consistently understaffed and continue to consistently understaff their locations to maximize profits. This company-wide practice of chronically understaffing its locations has resulted and results in having insufficient employees on duty to handle the requisite workload and insufficient employees to provide uninterrupted meal break coverage. Because of this practice, Claimants and other aggrieved employees were not provided adequate meal break coverage to permit them to be completely relieved of their duties in order to enjoy timely, complete, and uninterrupted meal breaks, as required by California law.

Because of the company-wide practice of chronically understaffing its locations, Claimants and other aggrieved employees were regularly interrupted and forced to work during their respective meal breaks – time that was not compensated by Respondents. Furthermore, even though Claimants reported their inability to take breaks to management, Respondents never paid them meal period premium pay, as required by California law.

Respondents' management also regularly interrupted their meal breaks and forced them to go back to their workstation without being registered on the time clock for all of the following reasons: (1) to fix errors that arose in certain orders; (2) to have them add items to certain orders; and/or (3) to assist with emergency orders that needed to be completed immediately. Employees were never paid for this work time and the interruptions lasted between five (5) to ten (10) minutes.

Additionally, because Respondents only had one time clock at their production plants, Claimants and other aggrieved employees regularly had their meal breaks cut short while they waited in line to clock back in from their meal breaks. Given that various warehouse employees took their meal break at the same time, employees spent various minutes waiting in lines to clock back in after their meal breaks – cutting their meal break time without pay. As a result, Claimants and other aggrieved employees missed meal periods and/or had their meal periods cut short but were not compensated for this time.

Third, to minimize payroll costs, Respondents required certain employees, including “Lead” employees, who were responsible for closing down the shift and preparing the warehouse for the next shift, to clock out after working eight (8) hours and to continue working off the clock. These employees were not paid overtime pay for any of these unrecorded hours.

Respondents knew or should have known that these policies – which included not paying overtime pay and not paying overtime hours at the employee’s regular hourly rate - were unlawful. Additionally, Respondents should have known that as a result of these company-wide practices and/or policies, Claimants and other aggrieved employees were performing assigned duties during their meal periods, and were thereby performing off-the clock work for no pay.

Because Claimants and other aggrieved employees regularly worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work performed during unpaid meal periods qualified for overtime premium pay. Therefore, Claimants and other aggrieved employees were not paid overtime pay for all of the overtime hours they actually worked. Respondents’ failure to pay Claimants and other aggrieved employees the proper overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Claimants and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699, subdivisions (a), and (f) through (g).

Violation of California Labor Code Sections 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum fixed is unlawful. Compensable work time is defined by the applicable Wage Order as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

As stated above, because of Respondents’ company-wide understaffing practices and resultant lack of meal break coverage, Claimants and other aggrieved employees were forced to forego meal periods and/or had their meal periods interrupted by work. This practice of understaffing its employees was further exacerbated because there was only a single time clock at the Respondents’ production facilities and cafés, and employees had to wait in line to clock in at the beginning of their shifts – time that was not compensated by Respondents. Additionally, employees’ meal breaks were regularly cut short while they waited in line to clock back in from their meal periods at the single time clock – time that also was not compensated.

Third, to minimize payroll costs, Respondents required certain employees to clock out after working eight (8) hours and required them to continue working off the clock.

Lastly, Respondents had a policy of not paying employees for time worked onboarding, including employee orientation training. Employees were not paid for work time spent doing all of the following: (1) filling out paperwork after being hired; (2) training on how to use Respondents’ time clocks; and (3) training on Respondent work practices and expectations.

Respondents did not pay minimum wages for meal periods and other off-the-clock hours that Claimants and other aggrieved employees worked through that otherwise would have qualified for overtime premium pay. To the extent that these off-the-clock hours did not qualify for overtime premium pay, Respondents did not pay at least minimum wages for those hours worked off-the-clock. Accordingly, Respondents regularly failed to pay at least minimum wages to Claimants and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Claimants and other aggrieved employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1197.1 and/or 2699, subdivisions (a), and (f) through (g).

Violation of California Labor Code Sections 226.7, 512(a), and 1198 - Failure to Provide Meal Periods

California Labor Code sections 226.7, 512, subdivision (a), and 1198 and the applicable IWC Wage Order require employers to provide meal and rest breaks and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512, subdivision (a), and the applicable IWC Wage Order, an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

Under California law, first meal periods must start before the end of the fifth hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1041-1042.). Labor Code sections 226.7 and 512, subdivision (a) and the applicable IWC Wage Order also require employers to provide a second meal break of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate of pay, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee, but only if the first meal period was not waived by the employee.

As stated above, Respondents have, and continue to have, a company-wide policy and/or practice of consistently understaffing locations that resulted in a lack of meal break coverage and prevented other aggrieved employees from taking all timely, complete, and uninterrupted meal periods to which they were entitled. Claimants and other aggrieved employees had to wait for management to authorize them to go on their meal breaks. Because of Respondents' practices and/or policies and the layout of their large warehouses and limited time clocks, other aggrieved employees had to: 1) work through part or all of their meal periods; 2) had their meal breaks cut short waiting in line to clock back in to work; 3) had their meal periods interrupted for as much as five (5) to ten (10) minutes by management to fix errors in orders, add to certain orders, or help with orders that needed to go out immediately; and/or 4) waited extended periods of time before being allowed to take meal periods. Furthermore, on information and belief, Respondents did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Other aggrieved employees did not sign valid

meal break waivers on days that they were entitled to meal periods and were not relieved of all duties.

Respondents knew or should have known that as a result of their policies, including understaffing, layout of their large warehouses, limited time clocks, and failure to provide meal periods, that other aggrieved employees were not actually relieved of all duties to take timely, complete, and uninterrupted meal periods. Respondents also knew or should have known that they did not pay other aggrieved employees meal period premium pay when they were missed, late, short, and/or interrupted.

Respondents also has and continues to engage in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Claimants and other aggrieved employees have not received premium pay for missed meal periods.

Accordingly, Respondents failed to provide all meal periods in violation of California Labor Code sections 226.7, 512, and 1198. Other aggrieved employees are therefore entitled to penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699, subdivision(a), and (f) through (g).

Violation of California Labor Code Sections 226.7 and 1198 - Failure to Provide Rest Periods

California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "(e)very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269-270.)

As with meal periods, Respondents' company-wide policy and practice of understaffing and resulting lack of break coverage prevented Claimants and other aggrieved employees from being relieved of all duty to take compliant rest periods. Claimants and other aggrieved employees had to wait for management to authorize them to go on their rest breaks and were often prevented from doing so. Claimants were frequently not permitted to take full and complete ten (10) minute rest periods, and instead would miss their rest periods or have their rest periods interrupted to meet the warehouse's demands.

Additionally, Respondents regularly failed to provide aggrieved employees with second 10-minute rest periods on days that they worked in excess of six (6) hours in one day. Aggrieved employees were often forced to wait until the last 10 minutes of their typical eight (8) hour shift to "go" on

their second break yet were still required to perform work related duties during those 10 minutes. Accordingly, Claimants and other aggrieved employees were regularly deprived of compliant second rest breaks and were not provided with additional compensation when forced to work during their rest breaks.

Because of Respondents' practices and policies, Claimants and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all timely, complete, and uninterrupted 10 minute rest periods to which they were entitled.

Respondents also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not provided. Because of this practice and/or policy, Claimants and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, Respondents failed to provide all rest periods in violation of California Labor Code sections 226.7, 512, and 1198. Claimants and other aggrieved employees are therefore entitled to penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 558 and 2699, subdivisions (a), and (f) through (g).

Violation of California Labor Code Sections 226(a), 1174(d), and 1198 - Non-Compliant Wage Statements, Failure to Maintain Accurate Payroll Records, and Failure to Provide Payroll Records

California Labor Code section 226, subdivision (a), requires employers to make, keep, and provide true, accurate, and complete employment records. Respondents have not provided Claimants and other aggrieved employees with properly itemized wage statements. Labor Code section 226, subdivision (e), provides that if an employer fails to provide an employee with properly itemized wages statements as set forth in section 226, subdivision (a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Furthermore, Labor Code section 226.3 provides that any employer who violates section 226, subdivision (a), shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to section 226, subdivision (a). Additionally, aggrieved employees that selected direct deposit as a form of payment did not receive a single wage statement during their employment, despite their numerous requests to receive copies of their wage statements.

Respondents have knowingly and intentionally provided Claimants and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. Specifically, Respondents violated sections 226, subdivisions (a)(1), (2), (5), (8) and (9). Respondents deducted time worked from other aggrieved employees' wage statements and employment records for meal periods that were interrupted or missed (and therefore time for that they should have been paid), and did not record time Claimants and other aggrieved employees spent working off-the-clock, the result of which was an unlawful deduction of wages earned and meal period premiums that should have been paid. The wage statement deficiencies also include, among other things, failing to state all hours worked as a result of not recording or stating the hours they worked off-the-

clock – e.g. time spent waiting in line to clock in at the beginning of their shift and time spent working without being registered on the clock. Thus, Respondents did not furnish wage statements to Claimants and other aggrieved employees containing accurate totals of the hours worked (Lab. Code, § 226, subd. (a)(2)), number of hours worked at each hourly rate (Lab. Code, § 226, subd. (a)(9)), net wages earned (Lab. Code, § 226, subd. (a)(5)), and gross wages earned (Lab. Code, § 226, subd. (a)(1)).

California Labor Code section 1174, subdivision (d), provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174, subdivision (d). During the relevant time period, and in violation of Labor Code section 1174, subdivision (d), Respondents willfully failed to maintain accurate payroll records for Claimants and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 also provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Respondents failed, on a company-wide basis, to keep accurate records of work period start and stop times for Claimants and other aggrieved employees, in violation of section 1198.

Because Respondents failed to provide the accurate number of total hours worked on wage statements, Claimants and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, they and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Claimants and other aggrieved employees are entitled to recover penalties, attorneys’ fees, costs, and interest thereon pursuant to Labor Code sections 226, subdivision (e), 226.3, 1174.5, and/or 2699, subdivisions (a), and (f) through (g).

Violation of California Labor Code Section 204 - Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and

the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, Respondents failed to pay Claimants and other aggrieved employees all compensation due to them, including, but not limited to, overtime wages, minimum wages and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Claimants and aggrieved employees are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699, subdivisions (a), and (f) through (g).

Violation of California Labor Code 201, 202, and 203 - Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Respondents have a company-wide practice and/or policy of not paying departing employees their final wages on their final day of employment or within seventy-two (72) hours of resigning without prior notice, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202.

Additionally, Respondents willfully failed to pay aggrieved employees who are no longer employed by Respondents all their earned wages, including, but not limited to, overtime wages, minimum wages, and meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving Respondents employ in violation of California Labor Code sections 201, 202, and 203.

Claimants and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699, subdivisions (a), and (f) through (g).

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Violation of California Labor Code § 1198 and California Code of Regulations Title 8 Section 11070 Subdivision 4(C) - Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 also requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11070(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” Respondents violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11070(5), because Respondents failed to pay Claimants and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regular schedule.

On information and belief, Respondents had a company-wide practice of sending employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay employees for half of their scheduled shift. Aggrieved employees would report to work based on the schedule that Respondents provided to them but would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, Claimants and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

Claimants and other aggrieved employees are therefore entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and 2699(f)-(g).

Violation of California Labor Code § 2802 - Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. (*Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal. App. 4th 1137, 1144.) The applicable wage order provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, Respondents failed to provide Claimants and other aggrieved employees with adequate uniforms for the tasks they were required to perform, instead forcing them and other aggrieved employees to pay out-of-pocket for some of their uniform components. For example, Claimants, as part of their duties as food preparers, were required to use approved slip-resistant shoes. However, Respondents did not provide these shoes to warehouse

employees. Instead, Claimants and other aggrieved employees were required to purchase multiple slip-resistant shoes on their own and were not reimbursed for this cost.

Additionally, Respondents required certain food preparers and bakers to purchase knives. Due to this requirement, Claimant Jefferson Garcia was forced to purchase a five-piece set of knives to fulfill his food preparation duties.

Respondents could have provided Claimants and other aggrieved employees with the actual tools for use on the job, including sufficient sets of knives and non-slip shoes. Respondents also could have also reimbursed employees for their out-of-pocket expenses in purchasing slip resistant shoes and knives to prepare food orders and baked goods. Instead, Respondents passed these operating costs off onto Claimants and other aggrieved employees in violation of California law. As such, Respondents had, and continue to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred. Moreover, at all relevant times, Claimants did not earn at least two (2) times the minimum wage.

Respondents' policy and/or practice of passing their operating costs on to Claimants and other aggrieved employees by requiring that they purchase their own uniforms violates California Labor Code section 2802. Claimants and other aggrieved employees are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code section 2699, subdivisions (f) through (g).

Violation of California Labor Code – Unlawful Deductions from Wages

California Labor Code section 221 prohibits employers to collect or receive employees' wages previously paid. California Labor Code section 224 authorizes an employer to lawfully withhold amounts from an employee's wages only when (1) required or empowered to do so by state or federal law; (2) a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage set by an agreement or statute; or (3) when a deduction to cover health, welfare, or pension plan contributions is expressly authorized by a wage agreement or a collective bargaining agreement.

Moreover, the applicable wage order provides as follows concerning the provision of uniforms and tools: "[a] reasonable deposit may be required by as a security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employees for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event said items is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job."

During the relevant time period, Respondents made unlawful deductions from Claimant Wilson Garcia and other aggrieved employees from their final paycheck for an alleged failure to return uniforms. Respondents had, and continue to have, a company-wide policy that deducts from employees' earned wages the original cost of any uniform items that were not timely returned to

the Company at the time of termination. Specifically, the Company deducts from terminated employees who failed to return their uniforms a total of \$15.00 for a regular shirt, \$30.00 for a "Manager" long-sleeved shirt, \$25.00 for a "Manager" short-sleeved shirt, \$10.00 for hat, \$10.00 for every apron, \$20.00 for chef jacket, and \$60.00 for driver jacket.

For example, Respondents deducted a total of \$125.00 for ten (10) uniform items provided to Claimant Wilson Garcia from the wages he earned in his final pay period of work with the Company. During his final pay period, Claimant Wilson Garcia worked a total of 10.40 hours at an hourly rate of \$14.94. He also received a total of \$30.99 in gratuities. In total, Claimant Wilson Garcia received \$186.37 in gross pay for this pay period. After Respondents unlawfully deducted \$125.00 from his earned wages, Claimant Wilson Garcia was left with a total of \$61.37 in compensation for his final pay period of work. Therefore, Respondents' wage deduction resulted in denying Claimant Wilson Garcia the required state and local minimum wage.

Respondents' policy and/or practice of making unlawful deductions at the time of termination from Claimant Wilson Garcia and other aggrieved employees violate the California Labor Code and the applicable wage order. Accordingly, Claimants and other aggrieved employees are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code section 2699, subdivisions (f) through (g).

Violation of California Labor Code § 2810.5(a) — Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claimed as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

On information and belief, Respondents failed to provide Claimants and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5, subdivision (a)(1)(A) through (C). Respondents' failure to provide them and other aggrieved employees with written notice of basic information regarding their employment with Respondents is in violation of Labor Code section 2810.5. Claimants and other aggrieved employees are therefore entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code section 2699, subdivision (a), and (f) through (g).

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Violation of California Labor Code §§ 6401 and 6403 - Failure to Provide Personal Protective Equipment

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of their employees. California Labor Code section 6403, subdivision (a), requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

Respondents, on a company-wide basis, failed to provide aggrieved employees with personal protective equipment such as sweaters and jackets to keep them safe in the workplace. The warehouses where Claimants worked had refrigerators to store items in very cold temperatures and employees had to regularly walk inside the refrigerators to perform their job functions and obtain the food products that were being prepared. These conditions forced employees to purchase warm protective equipment out of their own funds to work inside these refrigerators. Respondents failed to provide such reasonably necessary equipment to aggrieved employees to keep them safe. Notably, Respondents offered their own sweaters at a price of \$30.00 for sweaters with zippers and \$15.00 for sweaters without zippers. The cost of these sweaters was provided to employees as part of an appendix to the Employee Manual. Therefore, from the very first day of employment, Respondents' employees were instructed that the cost for protective equipment would be one that they would have to pay out of their own pocket.

Respondents' failure to provide aggrieved employees with basic personal protective equipment for the workplace violates Labor Code sections 6401 and 6403. Claimants and other aggrieved employees are therefore entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code section 2699, subdivisions (f) through (g).

Violation of California Labor Code § 558(a)

California Labor Code section 558, subdivision (a), provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558, subdivision (c), provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." Respondents, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Claimants' and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Claimants seek the remedies set forth in Labor Code section 558 for themselves, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699, subdivision (a), 2699.3, subdivision (a), and

2699.3, subdivision (c), 2699.5, and 558, Claimants, acting in the public interest as a private attorney general, seek assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Respondents for violations of California Labor Code sections 201, 202, 203, 204, 221, 224, 226, subdivision (a), 226.7, 510, 512, subdivision (a), 1174, subdivision (d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5, 6401, and 6403.

Therefore, on behalf of all aggrieved employees, Claimants seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the address below:

Macias Rodriguez LLP
1550 The Alameda, Suite 332
San Jose, CA 95126

Sincerely,

A handwritten signature in blue ink, appearing to read 'Hector J. Rodriguez', with a stylized, flowing script.

Hector J. Rodriguez
Partner