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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JOSE TREJO and IAN ZALDANA-
TERAUDS, as aggrieved employees pursuant
to the Private Attorneys General Act
("PAGA"), on behalf of the State of California
and other aggrieved employees,

Plaintiffs,

vs.

MASTRO'S RESTAURANTS, LLC, a Nevada
limited liability company; MASTRO'S OC LA,
LLC, a Delaware limited liability company;
MASTRO'S MASON SFO RESTAURANT,
LLC, a Delaware limited liability company;
LANDRY'S MANAGEMENT, L.P., a Delaware
limited partnership; LANDRY'S PAYROLL,
INC., a Texas corporation; and DOES 1 through
10, inclusive,

Defendants.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 13 2020

Sherri K. Carter, Executive Officer/Clerk of Court
By Steven Drew, Deputy

BY FAX

Case No.:

20STCV38899

COMPLAINT - PAGA ENFORCEMENT
ACTION

- (1) Claim for Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiffs Jose Trejo and Ian Zaldana-Terauds, as aggrieved employees and on behalf of the State
2 of California and all other aggrieved employees, allege as follows:

3 **JURISDICTION AND VENUE**

4 1. This is an enforcement action under the Labor Code Private Attorneys General Act of
5 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil penalties and any other
6 available relief on behalf of Plaintiffs, the State of California, and other current and former employees
7 who worked for Defendants in California as a non-exempt, hourly paid employee and received at least
8 one wage statement and against whom one or more violations of any provision in Division 2 Part 2
9 Chapter 1 of the Labor Code or any provision regulating hours and days of work in the applicable
10 Industrial Welfare Commission (“IWC”) Wage Order were committed, as set forth in this complaint, at
11 any time between one year prior to the filing of the pre-filing written notices to the Labor and Workforce
12 Development Agency (“LWDA”) in this case on August 4, 2020, until judgment (“non-party Aggrieved
13 Employees”). Plaintiffs’ share of civil penalties sought in this action does not exceed \$75,000.

14 2. This Court has jurisdiction over this action pursuant to the California Constitution,
15 Article VI, section 10. The statute under which this action is brought does not specify any other basis
16 for jurisdiction.

17 3. This Court has jurisdiction over all Defendants because, on information and belief,
18 Defendants are either citizens of California, have sufficient minimum contacts in California, or
19 otherwise intentionally avail themselves of the California market so as to render the exercise of
20 jurisdiction over them by the California courts consistent with traditional notions of fair play and
21 substantial justice. There is no basis for federal diversity jurisdiction in this action given that the State
22 of California, as the real party in interest in this action, is not a “citizen” for purposes of satisfying
23 diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino*
24 also holds that civil penalties cannot be aggregated to satisfy the amount in controversy requirement for
25 federal diversity jurisdiction in this action, and that diversity jurisdiction cannot be established when
26 Plaintiffs’ share of the civil penalties attributable to violations personally suffered are less than \$75,000.
27 *Id.* at 1122.

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4. Venue is proper in this Court, because Defendants employ persons in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

5. Further, venue is proper in this Court because Defendants are non-California citizens and have their principal place of business in Texas, and because they have not filed a statement with the California Secretary of State designating a county in which they maintain a principal place of business in accordance with California Corporations Code sections 16959 and 18200. Cal. Code Civ. P. § 395.2. Thus, Defendants have no right to any particular venue and Plaintiffs may file this complaint in any county in California. *See Juneau Spruce Corp. v. International Longshoremen's & Warehousemen's Union*, 37 Cal.2d 760, 763-764 (1951); *see also, Easton v. Sup.Ct. (Schneider Bros., Inc.)*, 12 Cal. App. 3d 243, 246-247 (1970). Cal. Code Civ. P. § 395.5.

6. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

7. Plaintiff JOSE TREJO is a resident of Thousand Oaks, in Ventura County, California. Defendants employed Plaintiff Trejo as an hourly paid, non-exempt Server Assistant from approximately June 2010 to March 2020. Plaintiff worked for Defendants at their Mastro's Steakhouse restaurant located in Thousand Oaks, California. During his employment, Plaintiff typically worked five (5) to six (6) hours or more per day, five (5) days per week, and 25 to 35 hours per week, from 3:00 p.m. to 9:00 p.m. At the time Plaintiff Trejo's employment with Defendants ended, he earned approximately \$13.00 per hour, in addition to tips. His job duties included, without limitation, cleaning and setting tables, attending to customers, boxing food, and maintaining the dining premises.

8. Plaintiff IAN ZALDANA-TERAUDS is a resident of Fullerton, in Orange County, California. Defendants employed Plaintiff Zaldana-Terauds as an hourly paid, non-exempt Server Assistant from approximately April 2019 to February 2020. Plaintiff Zaldana-Terauds worked for Defendants at their Mastro's Steakhouse restaurant located in Costa Mesa, California. During his

1 employment, Plaintiff Zaldana-Terauds typically worked six (6) or more hours per day, three (3) to five
2 (5) days per week, and 18 to 30 hours per week, from 5:00 p.m. to 11:00 p.m. or 3:30 p.m. to 10:00 p.m.
3 At the time Plaintiff Zaldana-Terauds's employment with Defendants ended, he earned approximately
4 \$13.00 per hour, in addition to tips. His job duties included, without limitation, cleaning and setting
5 tables, attending to customers, boxing food, and assisting servers.

6 9. On information and belief, Defendants required some employees, including Plaintiffs,
7 to execute a dispute resolution policy and/or arbitration agreement at the time of their hire or during
8 their employment. On further information and belief, Defendants' dispute resolution policy and/or
9 arbitration agreement was and is both procedurally and substantively unconscionable. Specifically,
10 Defendants presented new hires with an "Agreement to Arbitrate Claims" ("Arbitration Agreement")
11 during the onboarding process, which had to be reviewed and signed immediately. In fact, upon
12 information and belief, the Arbitration Agreement was one of several documents presented to new
13 employees for signature during the orientation process. Also, employees did not have a meaningful
14 opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants'
15 employees for them to sign on a take-it or leave-it basis at the time they were hired, along with other on-
16 boarding documents.

17 10. MASTRO'S RESTAURANTS, LLC was and is, upon information and belief, a Nevada
18 limited liability company, and at all times hereinafter mentioned, an employer whose employees are
19 engaged throughout this county, the State of California, or the various states of the United States of
20 America.

21 11. MASTRO'S OC LA, LLC was and is, upon information and belief, a Delaware limited
22 liability company, and at all times hereinafter mentioned, an employer whose employees are engaged
23 throughout this county, the State of California, or the various states of the United States of America.

24 12. MASTRO'S MASON SFO RESTAURANT, LLC was and is, upon information and
25 belief, a Delaware limited liability company, and at all times hereinafter mentioned, an employer whose
26 employees are engaged throughout this county, the State of California, or the various states of the United
27 States of America.

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1 13. LANDRY’S MANAGEMENT, L.P. was and is, upon information and belief, a
2 Delaware limited partnership, and at all times hereinafter mentioned, an employer whose employees are
3 engaged throughout this county, the State of California, or the various states of the United States of
4 America.

5 14. LANDRY’S PAYROLL, INC. was and is, upon information and belief, a Texas
6 corporation, and at all times hereinafter mentioned, an employer whose employees are engaged
7 throughout this county, the State of California, or the various states of the United States of America.

8 15. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein
9 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the complaint
10 and serve such fictitiously named Defendants once their names and capacities become known.

11 16. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 10 were
12 the partners, agents, owners, or managers of MASTRO’S RESTAURANTS, LLC; MASTRO’S
13 MASON SFO RESTAURANT, LLC; MASTRO’S OC LA, LLC; LANDRY’S MANAGEMENT, L.P.;
14 and/or LANDRY’S PAYROLL, INC. at all relevant times.

15 17. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts and
16 omissions alleged herein was performed by, or is attributable to, MASTRO’S RESTAURANTS, LLC;
17 MASTRO’S MASON SFO RESTAURANT, LLC; MASTRO’S OC LA, LLC; LANDRY’S
18 MANAGEMENT, L.P.; LANDRY’S PAYROLL, INC.; and/or DOES 1 through 10 (collectively,
19 “Defendants” or “MASTROS”), each acting as the agent, employee, alter ego, and/or joint venturer of,
20 or working in concert with, each of the other co-Defendants and was acting within the course and scope
21 of such agency, employment, joint venture, or concerted activity with legal authority to act on the others’
22 behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy
23 of Defendants.

24 18. At all relevant times, Defendants, and each of them, ratified each and every act or
25 omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted
26 the acts and omissions of each and all the other Defendants in proximately causing the damages herein
27 alleged.

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1 19. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants is
2 in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences,
3 and transactions alleged herein.

4 20. Under California law, Defendants are jointly and severally liable as employers for the
5 violations alleged herein because they have each exercised sufficient control over the wages, hours,
6 working conditions, and employment status of Plaintiffs and other non-party Aggrieved Employees.
7 Each Defendant had the power to hire and fire Plaintiffs and other non-party Aggrieved Employees,
8 supervised and controlled their work schedule and/or conditions of employment, determined their rate
9 of pay, and maintained their employment records. Defendants suffered or permitted Plaintiffs and other
10 non-party Aggrieved Employees to work and/or “engaged” Plaintiffs and other non-party Aggrieved
11 Employees so as to create a common-law employment relationship. As joint employers of Plaintiffs and
12 other non-party Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
13 available to Plaintiffs and other non-party Aggrieved Employees under the law.

14 21. Plaintiffs are informed and believe, and thereon allege, that at all relevant times,
15 Defendants, and each of them, have acted as joint employers with respect to Plaintiffs and other non-
16 party Aggrieved Employees because Defendants have:

- 17 (a) jointly exercised meaningful control over the work performed by Plaintiffs and
18 other non-party Aggrieved Employees;
- 19 (b) jointly exercised meaningful control over Plaintiffs’ and other non-party
20 Aggrieved Employees’ wages, hours, and working conditions, including the
21 quantity, quality standards, speed, scheduling, and operative details of the tasks
22 performed by Plaintiffs and other non-party Aggrieved Employees;
- 23 (c) jointly required that Plaintiffs and other non-party Aggrieved Employees
24 perform work which is an integral part of Defendants’ businesses; and
- 25 (d) jointly exercised control over Plaintiffs and other non-party Aggrieved
26 Employees as a matter of economic reality in that Plaintiffs and other non-party
27 Aggrieved Employees were dependent on Defendants, who shared the power to
28 set the wages of Plaintiffs and other non-party Aggrieved Employees and

determined their working conditions, and who jointly reaped the benefits from the underpayment of their wages and noncompliance with other statutory provisions governing their employment.

22. Plaintiffs are informed and believe, and thereon allege, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

23. MASTRO'S RESTAURANTS, LLC; MASTRO'S MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; LANDRY'S MANAGEMENT, L.P.; LANDRY'S PAYROLL, INC.; and DOES 1 through 10 are therefore alter egos of each other.

24. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by them under the name MASTROS.

25. Plaintiffs further allege, upon information and belief, that Defendants MASTRO'S RESTAURANTS, LLC; MASTRO'S MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; LANDRY'S MANAGEMENT, L.P.; and LANDRY'S PAYROLL, INC. are alter egos of each other for the following reasons:

(a) On the California Secretary of State's website (<https://businesssearch.sos.ca.gov/>) and the Texas Comptroller of Public Accounts website (<https://mycpa.cpa.state.tx.us/coa/>) MASTRO'S RESTAURANTS, LLC; MASTRO'S MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; LANDRY'S MANAGEMENT, L.P.; and LANDRY'S PAYROLL, INC. have the same mailing address and/or principal address, which is "1510 West Loop S, Houston, TX 77027."

(b) According to their most recent "Statement of Information" forms filed with the California Secretary of State, MASTRO'S RESTAURANTS, LLC; MASTRO'S MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; and LANDRY'S PAYROLL, INC. share the same officers and/or managers, including, but not limited to, Steven L. Scheinthal, who serves as Secretary of

1 LANDRY'S PAYROLL, INC. and as a manager of MASTRO'S
2 RESTAURANTS, LLC; MASTRO'S MASON SFO RESTAURANT, LLC; and
3 MASTRO'S OC LA, LLC;

4 (c) On information and belief, MASTRO'S RESTAURANTS, LLC; MASTRO'S
5 MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; and
6 LANDRY'S PAYROLL, INC. share the same agent for service of process, C T
7 CORPORATION SYSTEM;

8 (d) On information and belief, MASTRO'S RESTAURANTS, LLC; MASTRO'S
9 MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; LANDRY'S
10 MANAGEMENT, L.P.; and LANDRY'S PAYROLL, INC. utilize the same
11 standardized employment forms and issue the same employment policies.

12 **PAGA REPRESENTATIVE ALLEGATIONS**

13 26. Defendants are a chain of fine dining steakhouse and seafood restaurants. Defendants
14 operate at least eight (8) restaurant locations in California. Upon information and belief, Defendants
15 maintain a single, centralized Human Resources ("HR") department at their corporate headquarters in
16 Houston, Texas, which is responsible for the recruiting and hiring of new employees, and
17 communicating and implementing Defendants' company-wide policies, including timekeeping policies
18 and meal and rest period policies, to employees throughout California.

19 27. In particular, Plaintiffs and other non-party Aggrieved Employees, on information and
20 belief, received the same standardized documents and/or written policies. Upon information and belief,
21 the usage of standardized documents and/or written policies, including new-hire documents, indicate
22 that Defendants dictated policies at the corporate level and implemented them company-wide, regardless
23 of their employees' assigned locations or positions. Upon information and belief, Defendants set forth
24 uniform policies and procedures in several documents provided at an employee's time of hire.

25 28. Upon information and belief, Defendants maintain a centralized Payroll department at
26 their corporate headquarters in Houston, Texas, which processes payroll for all non-exempt, hourly paid
27 employees working for Defendants at their various locations and jobsites in California, including
28 Plaintiffs and other non-party Aggrieved Employees. Based upon information and belief, Defendants

1 issue the same formatted wage statements to all non-exempt, hourly paid employees in California,
2 irrespective of their work locations. Upon information and belief, Defendants process payroll for
3 departing employees in the same manner throughout the State of California, regardless of the manner in
4 which each employee's employment ends.

5 29. Defendants continue to employ non-exempt or hourly paid employees in California.

6 30. Plaintiffs are informed and believe, and thereon allege, that at all times herein
7 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors
8 knowledgeable about California labor and wage law, employment and personnel practices, and about
9 the requirements of California law.

10 31. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and other non-
11 party Aggrieved Employees were not paid for all hours worked because all hours worked were not
12 recorded.

13 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
14 have known that Plaintiffs and other non-party Aggrieved Employees were entitled to receive certain
15 wages for overtime compensation and that they were not receiving certain wages for overtime
16 compensation.

17 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
18 have known that Plaintiffs and other non-party Aggrieved Employees were entitled to receive at least
19 minimum wages for compensation and that they were not receiving at least minimum wages for work
20 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiffs and
21 other non-party Aggrieved Employees were not paid at least minimum wages for work done off-the-
22 clock.

23 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
24 have known that Plaintiffs and other non-party Aggrieved Employees were entitled to meal periods in
25 accordance with the Labor Code or payment of one (1) additional hour of pay at their regular rates of
26 pay when they were not provided with timely, uninterrupted, thirty (30) minute meal periods and that
27 Plaintiffs and other non-party Aggrieved Employees were not provided with all meal periods or payment
28 of one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,

uninterrupted, thirty (30) minute meal period.

35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiffs and other non-party Aggrieved Employees were not authorized and permitted to take compliant rest periods, nor did Defendants provide Plaintiffs and other non-party Aggrieved Employees with payment of one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period.

36. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to receive complete and accurate wage statements in accordance with California law. In violation of the California Labor Code, Plaintiffs and other non-party Aggrieved Employees were not provided complete and accurate wage statements.

37. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should have known that they had a duty to maintain accurate and complete payroll records in accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and intentionally failed to do so.

38. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to timely payment of all wages earned upon termination of employment. In violation of the California Labor Code, Plaintiffs and other non-party Aggrieved Employees did not receive payment of all wages due, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay within permissible time periods.

39. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should have known that Plaintiffs and other non-party Aggrieved Employees were entitled to timely payment of wages during their employment. In violation of the California Labor Code, Plaintiffs and other non-party Aggrieved Employees did not receive payment of all wages, including, but not limited to, overtime

1 wages, minimum wages, meal and rest period premiums, and/or reporting time pay within permissible
2 time periods.

3 40. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
4 have known that Plaintiffs and other non-party Aggrieved Employees were entitled to receive their full
5 wages due without having to execute a release of claims.

6 41. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
7 have known that Plaintiffs and/or other non-party Aggrieved Employees were entitled to suitable seating
8 and/or were entitled to sit when it did not interfere with the performance of their duties and also have
9 seats nearby to use during a lull in tasks that do require moving about or standing.

10 42. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
11 have known that Plaintiff Trejo and other non-party Aggrieved Employees were entitled to be paid
12 reporting time pay when they reported to work for their scheduled shift but were put to work for less
13 than half of the regular schedule. In violation of the California Labor Code, Defendants did not pay
14 Plaintiff Trejo and other non-party Aggrieved Employees all reporting time pay due.

15 43. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or should
16 have known that Plaintiffs and other non-party Aggrieved Employees were entitled to receive
17 reimbursement for all business-related expenses and costs they incurred during the course and scope of
18 their employment and that they did not receive reimbursement of applicable business-related expenses
19 and costs incurred.

20 44. Plaintiffs are informed and believe, and thereon allege, that at all times herein
21 mentioned, Defendants knew or should have known that Defendants had a duty to provide Plaintiff
22 Zaldana-Terauds and other non-party Aggrieved Employees with written notice of the material terms
23 of their employment with Defendants as required by the California Wage Theft Prevention Act, but
24 willfully, knowingly, and intentionally failed to do so.

25 45. Plaintiffs are informed and believe, and thereon allege, that at all times herein
26 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiffs and
27 other non-party Aggrieved Employees for all hours worked, and that Defendants had the financial ability
28 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely

1 represented to Plaintiffs and other non-party Aggrieved Employees that they were properly denied
2 wages, all in order to increase Defendants' profits.

3 46. At all times herein set forth, PAGA provides that any provision of law under the Labor
4 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by
5 the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as an
6 alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and
7 other current or former employees pursuant to procedures outlined in California Labor Code section
8 2699.3.

9 47. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any person
10 who was employed by the alleged violator and against whom one or more of the alleged violations was
11 committed."

12 48. Plaintiffs and other current and former employees of Defendants are "aggrieved
13 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current or former
14 employees and one or more of the alleged violations were committed against them.

15 49. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee,
16 including Plaintiffs, may pursue a civil action arising under PAGA after the following requirements have
17 been met:

- 18 (a) The aggrieved employee shall give written notice by online filing (hereinafter
19 "Employee's Notice") to the LWDA and by certified mail to the employer of
20 the specific provisions of the California Labor Code alleged to have been
21 violated, including the facts and theories to support the alleged violations.
- 22 (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(a)
23 and any employer response to that notice shall be accompanied by a filing fee
24 of seventy-five dollars (\$75).
- 25 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer
26 and the aggrieved employee by certified mail that it does not intend to
27 investigate the alleged violation within sixty (60) calendar days of the postmark
28 date of the Employee's Notice. Upon receipt of the LWDA Notice, or if the

1 LWDA Notice is not provided within sixty-five (65) calendar days of the
2 postmark date of the Employee's Notice, the aggrieved employee may
3 commence a civil action pursuant to California Labor Code section 2699 to
4 recover civil penalties in addition to any other penalties to which the employee
5 may be entitled.

6 50. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees, through
7 Plaintiffs, may pursue a civil action arising under PAGA for violations of any provision other than those
8 listed in Section 2699.5 after the following requirements have been met:

9 (a) The aggrieved employee or representative shall give written notice by online
10 filing to the LWDA and by certified mail to the employer of the specific
11 provisions of the California Labor Code alleged to have been violated (other
12 than those listed in Section 2699.5), including the facts and theories to support
13 the alleged violation.

14 (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c)
15 and any employer response to that notice shall be accompanied by a filing fee
16 of seventy-five dollars (\$75).

17 (c) The employer may cure the alleged violation within thirty-three (33) calendar
18 days of the postmark date of the notice. The employer shall give written notice
19 by certified mail within that period of time to the aggrieved employee or
20 representative and the agency if the alleged violation is cured, including a
21 description of actions taken, and no civil action pursuant to Section 2699 may
22 commence. If the alleged violation is not cured within the 33-day period, the
23 employee may commence a civil action pursuant to Section 2699.

24 51. On August 4, 2020, Plaintiff Trejo provided written notice by online filing to the LWDA
25 and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to
26 have been violated, including facts and theories to support the alleged violations, in accordance with
27 California Labor Code section 2699.3. Plaintiff Trejo's written notice was accompanied with the
28 applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator has confirmed

1 receipt of Plaintiff Trejo's written notice and assigned Plaintiff Trejo PAGA Case Number LWDA-CM-
2 801314-20. A true and correct copy of Plaintiff Trejo's written notice to the LWDA and Defendants
3 dated August 4, 2020, is attached hereto as "Exhibit 1."

4 52. On August 4, 2020, Plaintiff Zaldana-Terauds provided written notice by online filing
5 to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code
6 alleged to have been violated, including facts and theories to support the alleged violations, in
7 accordance with California Labor Code section 2699.3. Plaintiff Zaldana-Terauds's written notice was
8 accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
9 Administrator has confirmed receipt of Plaintiff Zaldana-Terauds's written notice and assigned Plaintiff
10 Zaldana-Terauds PAGA Case Number LWDA-CM-801318-20. A true and correct copy of Plaintiff
11 Zaldana-Terauds's written notice to the LWDA and Defendants dated August 4, 2020, is attached hereto
12 as "Exhibit 2."

13 53. As of the filing date of this complaint, over 65 days have passed since Plaintiffs sent the
14 initial LWDA Notices described above, and the LWDA has not responded that it intends to investigate
15 Plaintiffs' claims, and Defendants have not cured the violations.

16 54. Thus, Plaintiffs have satisfied the administrative prerequisites under California Labor
17 Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations of
18 California Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 510, 512(a), 516, 1174(d),
19 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

20 55. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf
21 of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating
22 hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil
23 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
24 pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred
25 dollars (\$100) for each underpaid employee for each pay period for which the employee was
26 underpaid. . . ." Labor Code section 558(c) provides "[t]he civil penalties provided for in this section
27 are in addition to any other civil or criminal penalty provided by law." Plaintiffs, acting in the public
28 interest as private attorneys general, seek assessment and collection of civil penalties under Labor Code

1 section 558 for themselves, all other non-party Aggrieved Employees, and the State of California against
2 Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC wage
3 order. Plaintiffs, acting in the public interest as private attorneys general, do not seek the recovery of
4 unpaid wages under Labor Code section 558 from Defendants for violations of Labor Code sections 510,
5 512(a), 516, 1198, and the applicable IWC wage order.

6 56. Defendants, at all times relevant to this complaint, were employers or persons acting on
7 behalf of an employer(s) who violated Plaintiffs' and other non-party Aggrieved Employees' rights by
8 violating various sections of the California Labor Code as set forth above.

9 57. As set forth below, Defendants have violated numerous provisions of both the Labor
10 Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

11 58. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a),
12 2699.3(c), 2699.5, and section 558, Plaintiffs, acting in the public interest as private attorneys general,
13 seek assessment and collection of civil penalties for themselves, all other non-party Aggrieved
14 Employees, and the State of California against Defendants for violations of California Labor Code
15 sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198,
16 2802, and 2810.5.

17 **FIRST CAUSE OF ACTION**

18 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

19 **(Against all Defendants)**

20 59. Plaintiffs incorporate by reference and re-allege as if fully stated herein each and every
21 allegation set forth above.

22 60. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiffs to recover civil
23 penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5.
24 Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 510, 512(a),
25 1174(d), 1194, 1197, 1198, 2802. Labor Code section 2699.3(c) permits aggrieved employees, including
26 Plaintiffs, to recover civil penalties for violations of those Labor Code sections not found in section
27 2699.5, including sections 516, 1182.12, and 2810.5.

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1 61. Defendants' conduct, as alleged herein, violates numerous sections of the California
2 Labor Code, including, but not limited to, the following:

- 3 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC wage order
4 for Defendants' failure to compensate Plaintiffs and other non-party Aggrieved
5 Employees with all required overtime pay, as set forth below;
- 6 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the applicable
7 IWC wage order for Defendants' failure to compensate Plaintiffs and other non-
8 party Aggrieved Employees with at least minimum wages for all hours worked
9 as set forth below;
- 10 (c) Violation of Labor Code sections 226.7, 512, 516, 1198, and the applicable IWC
11 wage order for Defendants' failure to provide Plaintiffs and other non-party
12 Aggrieved Employees with meal periods, as set forth below;
- 13 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable IWC
14 wage order for Defendants' failure to authorize and permit Plaintiffs and other
15 non-party Aggrieved Employees to take rest periods, as set forth below;
- 16 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC wage
17 order for failure to provide accurate and complete wage statements to Plaintiffs
18 and other non-party Aggrieved Employees, as set forth below;
- 19 (f) Violation of Labor Code sections 1174(d), 1198, and the applicable IWC wage
20 order for failure to maintain payroll records as set forth below;
- 21 (g) Violation of Labor Code section 204 for failure to pay all earned wages during
22 employment as set forth below;
- 23 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all earned
24 wages upon termination as set forth below;
- 25 (i) Violation of Labor Code section 206.5 for requiring Plaintiffs and other non-
26 party Aggrieved Employees to execute a release of claims as a condition to
27 receiving wages due to them, as set forth below;
- 28 (j) Violation of Labor Code section 1198 for failing to provide suitable seating to

1 Plaintiffs and/or other non-party Aggrieved Employees, as set forth below;

2 (k) Violation of Labor Code section 1198 and the applicable IWC wage order for
3 failure to pay reporting time pay when Plaintiff Trejo and other non-party
4 Aggrieved Employees were put to work for less than half of their regular
5 scheduled shifts, as set forth below;

6 (l) Violation of Labor Code section 2802 for failure to reimburse Plaintiffs and
7 other non-party Aggrieved Employees for all business expenses necessarily
8 incurred, as set forth below; and

9 (m) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to provide
10 written notice of information material to Plaintiff Zaldana-Terauds's and other
11 non-party Aggrieved Employees' employment with Defendants, as set forth
12 below.

13 **FAILURE TO PAY OVERTIME**

14 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

15 62. Labor Code section 1198 makes it illegal to employ an employee under conditions of
16 labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that
17 "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of
18 labor for employees. The employment of any employee ... under conditions of labor prohibited by the
19 order is unlawful."

20 63. California Labor Code section 1198 and the applicable IWC Wage Order provide that it
21 is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or
22 two-times that person's regular rate of pay, depending on the number of hours worked by the person on
23 a daily or weekly basis.

24 64. Specifically, the applicable IWC Wage Order provides that Defendants are and were
25 required to pay Plaintiffs and other non-party Aggrieved Employees working more than eight (8) hours
26 in a day or more than forty (40) hours in a workweek, at the rate of time and one-half (1½) for all hours
27 worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

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1 65. The applicable IWC Wage Order further provides that Defendants are and were required
2 to pay Plaintiffs and other non-party Aggrieved Employees working more than twelve (12) hours in a
3 day, overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular
4 rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including
5 nondiscretionary bonuses and incentive pay.

6 66. California Labor Code section 510 codifies the right to overtime compensation at one
7 and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours in a day or
8 forty (40) hours in a week or for the first eight (8) hours worked on the seventh (7th) day of work, and
9 to overtime compensation at twice the employee's regular rate of pay for hours worked in excess of
10 twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh (7th) day of work.

11 67. During the relevant time period, Defendants willfully failed to pay all overtime wages
12 owed to Plaintiffs and other non-party Aggrieved Employees. During the relevant time period, Plaintiffs
13 and other non-party Aggrieved Employees were not paid overtime premiums for all of the hours they
14 worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of
15 forty (40) hours in a week, because all hours worked were not recorded.

16 68. First, during the relevant period, Defendants had a company-wide "on-call" policy,
17 whereby they scheduled Plaintiff Trejo and other non-party Aggrieved Employees to work "on-call," or
18 on standby. These "on-call" shifts worked to Defendants' benefit and to the detriment of Plaintiff Trejo
19 and other non-party Aggrieved Employees. By utilizing "on-call" shifts, Defendants received the benefit
20 of being able to maximize revenue by having a standby workforce they could choose to utilize or not,
21 depending on restaurant traffic and sales metrics, without incurring the cost of compensating employees
22 who show up to work and work a full or partial scheduled day's work.

23 69. When scheduled for an "on-call" or standby shift, Plaintiff Trejo and other non-party
24 Aggrieved Employees were required to wait for the restaurant to call them or to call the restaurant
25 themselves two (2) hours before their scheduled standby shift to see if they were required to come in
26 and work. Plaintiff Trejo and other non-party Aggrieved Employees were engaged to wait and could
27 not engage in personal activities as they had to be ready to travel to their respective restaurants on short
28 notice and work their standby shift. When scheduled to be "on-call" for a standby shift, Plaintiff Trejo

1 and other non-party Aggrieved Employees were controlled by Defendants because they were forced to
2 put their lives on hold and could not use that time freely for their own purposes. For example, Plaintiff
3 Trejo refrained from making plans altogether while “on-call” for a standby shift because he knew that
4 he had to drop whatever he was doing at a moment’s notice if he was instructed to work his standby
5 shift. Defendants did not pay Plaintiff Trejo and other non-party Aggrieved Employees for the time they
6 spent waiting to hear whether they needed to report to their restaurant for work on days they ultimately
7 were not called in. Defendants also did not compensate Plaintiff Trejo and other non-party Aggrieved
8 Employees for the time they spent calling in to see if they were needed.

9 70. Second, on information and belief, Defendants had, and continue to have, a company-
10 wide policy and/or practice of strictly staffing their restaurant locations based on the labor hours
11 allocated by each restaurant’s labor or payroll budget, which has resulted in and continues to result in
12 chronic understaffing and a lack of adequate meal period coverage, because there were too few
13 employees on duty to handle the workload and attend to customers. Additionally, Defendants failed to
14 schedule or failed to adhere to a schedule of meal periods, which further exacerbated this lack of meal
15 period coverage. As a result of this lack of meal period coverage, Plaintiff Zaldana-Terauds and other
16 non-party Aggrieved Employees were not always afforded 30-minute meal periods during shifts when
17 they were entitled to receive a meal period.

18 71. For example, when Plaintiff Zaldana-Terauds and other non-party Aggrieved
19 Employees worked opening shifts, Defendants allocated insufficient time for them to prepare the
20 restaurant for service before their scheduled meal periods. Defendants’ management also scheduled
21 mandatory meetings which were set for 15 minutes prior to the opening of the restaurant to customers.
22 However, opening shift/restaurant preparation duties often took longer than the allotted time to complete
23 due to understaffing, forcing Plaintiff Zaldana-Terauds and other non-party Aggrieved Employees to
24 perform work and attend mandatory meetings during their unpaid meal periods. For instance, when
25 Plaintiff Zaldana-Terauds and other non-party Aggrieved Employees worked opening shifts, they would
26 be required to clock out at their designated meal period start time and continue finishing their preparation
27 tasks, which could take an additional 15 minutes, before they were actually able to take their meal
28 periods. Alternatively, on days when Plaintiff Zaldana-Terauds and other non-party Aggrieved

1 Employees timely clocked out for meal periods upon completion of their preparation tasks, they were
2 then required to report to the scheduled meetings, even though they were already clocked out for their
3 meal periods, which could cut short their meal periods by 15 minutes. Thus, Plaintiff Zaldana-Terauds
4 and other non-party Aggrieved Employees performed work during meal periods for which they were not
5 paid.

6 72. Further, because Defendants frowned upon employees accruing meal period penalties,
7 Defendants pressured Plaintiff Zaldana-Terauds and other non-party Aggrieved Employees who had
8 signed invalid meal period waivers (*see infra*) to clock out before they worked six (6) hours in day in
9 order to limit their eligibility for meal periods they otherwise would have received. For example, at
10 least once per week, Plaintiff Zaldana-Terauds would be pressured to clock out and continue working
11 for 15 minutes tending to customers and resetting tables, tasks he was required by Defendants to
12 complete before he could leave for the day. Plaintiff Zaldana-Terauds and other non-party Aggrieved
13 Employees would continue to perform their assigned tasks off-the-clock because Defendants wanted to
14 avoid paying penalties for missed meal periods.

15 73. Defendants knew or should have known that as a result of these company-wide practices
16 and/or policies, Plaintiffs and other non-party Aggrieved Employees were working before and after their
17 shifts and/or during their meal periods, and were suffered or permitted to perform work for which they
18 were not paid.

19 74. Because Plaintiffs and other non-party Aggrieved Employees sometimes worked shifts
20 of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work
21 qualified for overtime premium pay. Therefore, Plaintiffs and other non-party Aggrieved Employees
22 were not paid overtime wages for all of the overtime hours they actually worked.

23 75. Defendants' failure to pay Plaintiffs and other non-party Aggrieved Employees the
24 balance of overtime compensation as required by California law, violates the provisions of California
25 Labor Code sections 510 and 1198. Plaintiffs and other non-party Aggrieved Employees are entitled to
26 recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

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1 **FAILURE TO PAY MINIMUM WAGES**

2 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

3 76. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and 1198
4 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to
5 employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work
6 time is defined by the applicable wage order as “the time during which an employee is subject to the
7 control of an employer, and includes all the time the employee is suffered or permitted to work, whether
8 or not required to do so.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

9 77. As set forth above, Defendants had a company-wide “on-call” policy, whereby they
10 required Plaintiff Trejo and other non-party Aggrieved Employees to wait to be called by the restaurant
11 or call in themselves two (2) hours in advance when scheduled for standby shifts. When this occurred,
12 Plaintiff Trejo and other non-party Aggrieved Employees had to put their lives on hold and were
13 restricted from using that time freely for their own purposes. Yet, Defendants did not pay Plaintiff Trejo
14 and other non-party Aggrieved Employees at least minimum wages for the time they spent calling in or
15 waiting to see if they were needed at the restaurant.

16 78. In addition, as stated above, due to Defendants’ company-wide policies and/or practices
17 of utilizing labor budgets, resultant understaffing, lack of meal period coverage, and failure to schedule
18 or failure to adhere to a schedule of meal periods, Plaintiff Zaldana-Terauds and other non-party
19 Aggrieved Employees were impeded from taking all uninterrupted meal periods to which they were
20 entitled and were required to work off-the-clock. Also, as stated, in order to prevent employees from
21 accruing meal period penalties, upon information and belief, Defendants’ management pressured and/or
22 instructed employees to clock out before they worked six (6) hours in day to limit their eligibility for
23 meal periods, but required them to continue working, time for which they were not paid.

24 79. Thus, Defendants did not pay at least minimum wages for off-the-clock hours that
25 qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not
26 qualify for overtime premium payment, Defendants did not pay at least minimum wages for those hours
27 worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1.

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1 80. Defendants' failure to pay Plaintiffs and other non-party Aggrieved Employees
2 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198. Plaintiffs and
3 other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor
4 Code sections 2699(a), (f), and (g).

5 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

6 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

7 81. At all relevant times herein set forth, the applicable IWC Wage Order(s) and California
8 Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiffs' and non-party Aggrieved
9 Employees' employment by Defendants.

10 82. At all relevant times herein set forth, California Labor Code section 512(a) provides that
11 an employer may not require, cause, or permit an employee to work for a period of more than five (5)
12 hours per day without providing the employee with a meal period of not less than thirty (30) minutes,
13 except that if the total work period per day of the employee is not more than six (6) hours, the meal
14 period may be waived by mutual consent of both the employer and the employee. Under California law,
15 first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53
16 Cal. 4th 1004, 1041-1042 (Cal. 2012).

17 83. At all relevant times herein set forth, California Labor Code section 226.7, 512(a), 516,
18 and 1198 provide that no employer shall require an employee to work during any meal period mandated
19 by an applicable order of the IWC.

20 84. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198 and the
21 applicable IWC Wage Order also require employers to provide a second meal period of not less than
22 thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1)
23 additional hour of pay at the employee's regular rate, except that if the total hours worked is no more
24 than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and
25 the employee only if the first meal period was not waived.

26 85. First, as stated above, Defendants had, and continue to have, a company-wide policy
27 and/or practice of strictly staffing their restaurant locations based on the labor hours allocated by each
28 restaurant's labor or payroll budget, which has resulted in and continues to result in chronic

1 understaffing and a lack of adequate meal period coverage, because there were too few employees on
2 duty to handle the workload and attend to customers. As a result of this lack of meal period coverage,
3 Plaintiff Zaldana-Terauds and other non-party Aggrieved Employees were not always afforded 30-
4 minute meal periods during shifts when they were entitled to receive a meal period. Additionally,
5 Defendants failed to schedule or failed to adhere to a schedule of meal periods, resulting in Plaintiff
6 Zaldana-Terauds and other non-party Aggrieved Employees waiting extended periods of time before
7 taking meal periods and, at times, had their meal periods interrupted and/or had to forgo their meal
8 periods altogether. For example, Plaintiff Zaldana-Terauds would miss meal periods three (3) to four
9 (4) times per week either because Defendants did not provide him meal period to which he was entitled,
10 or because he was required to complete all of the work-related duties Defendants assigned him.
11 Furthermore, as described above, because Defendants allotted an insufficient window of time for
12 employees to prepare the dining premises for customers, take meal periods, and attend mandatory
13 meetings, Plaintiff Zaldana-Terauds and other non-party Aggrieved Employees were required to work
14 through 15 minutes of their meal periods during opening shifts in order to complete all of their assigned
15 tasks before the restaurant opened to the public.

16 86. Second, on information and belief, because Defendants frowned upon employees
17 accruing meal period penalties, Defendants' management would pressure Plaintiff Zaldana-Terauds and
18 other non-party Aggrieved Employees who had signed invalid meal period waivers (*see infra*) to clock
19 out before they worked six (6) hours in day and continue working to limit their eligibility for meal
20 periods, in order to strictly limit meal penalties that would need to be paid by Defendants

21 87. Third, Defendants did not provide Plaintiffs and other non-party Aggrieved Employees
22 with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day.
23 Plaintiffs and other non-party Aggrieved Employees worked shifts in excess of ten (10) hours without
24 receiving an uninterrupted second 30-minute meal period. Plaintiffs and other non-party Aggrieved
25 Employees did not sign valid meal period waivers on days that they were entitled to meal periods and
26 were not relieved of all duties.

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1 88. Moreover, Defendants had a company-wide policy of requiring all newly hired
2 employees to sign blanket meal period waivers at or near their time of hire. Defendants took the position
3 that non-exempt, hourly paid employees had waived their rights to first and second meal periods for the
4 entirety of their employment and, on that basis, did not provide them with all meal periods to which they
5 were entitled. Specifically, Defendants’ “California Pay Laws and Meal Break Waiver Agreement”
6 form provides that the waiver remains in effect until the employee provides his or her manager with
7 advanced, written notice of his or her decision to revoke: “Should I choose to revoke this waiver, I agree
8 to do so in writing.” Defendants’ company-wide use of blanket meal period waivers signed at or near
9 the time of hire and imposition on employees to revoke the waivers in writing, discouraged and impeded
10 Plaintiff Zaldana-Terauds and other non-party Aggrieved Employees from taking all meal periods to
11 which they were entitled. And, Defendants’ presumption that second meal periods would not be
12 provided for shifts in excess of ten (10) hours but less than twelve (12) hours due to blanket meal period
13 waivers discouraged Plaintiffs and other non-party Aggrieved Employees from taking second meal
14 periods.

15 89. What’s more, an employer’s obligation to provide a meal period is only “triggered”
16 when the employer “employs an employee for a work period of more than five hours per day.” *Brinker*,
17 53 Cal. 4th at 1039 (“If an employer engages, suffers, or permits anyone to work for a full five hours,
18 its meal break obligation is triggered.”).

19 [A]fter the meal break obligation is triggered . . . an employer is put to a choice:
20 it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-
21 upon waiver if one hour or less will end the shift; or (3) obtain written agreement
22 to an on-duty meal period if circumstances permit. Failure to do one of these
will render the employer liable for premium pay. *Id.* (citing Cal. Labor Code
§ 226.7; Wage Order No. 5, subd. 11(A), (B)).

23 90. Further, under Labor Code section 512(a) and the applicable IWC Wage Order,
24 employees may waive their second meal periods only if they took their first meal period. That
25 Defendants require employees to sign meal period waivers simultaneously at or near their time of hire
26 (as opposed to on a specific work day) renders them invalid and unenforceable, because Defendants’
27 obligation to provide Plaintiffs and other non-party Aggrieved Employees with meal periods did not
28 arise until Defendants had employed them for a full five (5) hours.

1 91. Defendants knew or should have known that as a result of its company-wide policies
2 and/or practices, that Plaintiffs and other non-party Aggrieved Employees were not actually relieved of
3 all duties to take timely, uninterrupted meal periods. Defendants further knew or should have known
4 that it did not pay Plaintiffs and other non-party Aggrieved Employees meal period premium wages
5 when meal periods were missed, late, short, and/or interrupted.

6 92. Furthermore, Defendants engaged in a company-wide practice and/or policy of not
7 paying all meal period premiums owed when compliant meal periods are not provided. Because of this
8 practice and/or policy, Plaintiffs and other non-party Aggrieved Employees have not received premium
9 pay for missed, interrupted, or late meal periods.

10 93. Thus, Defendants failed to provide Plaintiffs and other non-party Aggrieved Employees
11 compliant meal periods and failed to pay the full meal period premiums due. Defendants' conduct
12 violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and
13 1198. Plaintiffs and other non-party Aggrieved Employees are entitled to recover civil penalties
14 pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

15 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

16 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

17 94. At all relevant times herein set forth, the applicable IWC Wage Order and California
18 Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiffs' and other non-party Aggrieved
19 Employees' employment by Defendants.

20 95. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer
21 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the
22 middle of each work period" and that the "rest period time shall be based on the total hours worked daily
23 at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total
24 daily work time is less than three and one-half (3½) hours.

25 96. At all relevant times, California Labor Code section 226.7 provides that no employer
26 shall require an employee to work during any rest period mandated by an applicable order of the
27 California IWC. To comply with its obligation to authorize and permit rest periods under California
28 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.*, 2 Cal. 5th 257, 269-270 (2016).

97. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiffs and other non-party Aggrieved Employees are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

98. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiffs and other non-party Aggrieved Employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants’ company-wide practices, including understaffing while assigning heavy workloads, resulted in a lack of rest period coverage and prevented Plaintiffs and other non-party Aggrieved Employees from being relieved of all duty in order to take compliant rest periods. Defendants also failed to schedule rest periods, which, coupled with Defendants’ failure to provide adequate rest period coverage, further led to Plaintiffs and other non-party Aggrieved Employees not being authorized and permitted to take rest periods.

99. Furthermore, upon information and belief, Defendants maintained and implemented a company-wide on-premises rest period policy, which mandated that Plaintiffs and other non-party Aggrieved Employees remain on Defendants’ premises during their rest periods. For example, Plaintiff Trejo was expressly forbidden from leaving the restaurant premises while he was clocked in for his shifts. Defendants’ company-wide on-premises rest period policy prevented Plaintiffs and other non-party Aggrieved Employees from being relieved of all duties for rest periods and caused them to perform work during rest periods

100. As a result, Plaintiffs and other non-party Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, throughout their employment, Plaintiffs had to forego rest periods entirely, due to Defendants’ policy of understaffing while assigning heavy workloads, which constantly required them to attend to customers or maintain the dining premises.

101. Defendants also have engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Plaintiffs and other non-party Aggrieved Employees have not received premium pay for all missed rest periods.

102. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS
VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198

103. At all relevant times herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

104. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiffs and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiffs and other non-party Aggrieved Employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

105. Because Defendants did not record the time Plaintiffs and other non-party Aggrieved Employees spent working off-the-clock, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiffs and other non-party Aggrieved Employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiffs and other non-party Aggrieved Employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

106. The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

107. 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 further 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, Defendants failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Plaintiffs and other non-party Aggrieved Employees, in violation of section 1198. Furthermore, in light of Defendants’ failure to provide Plaintiffs and other non-party Aggrieved Employees with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

108. California Labor Code section 1174(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(d). During the relevant time period, and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiffs and other non-party Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a result

1 of failing to record the off-the-clock hours that they worked.

2 109. Because Defendants' violations of 226(a) and 1174(d) were committed against Plaintiffs
3 and other non-party Aggrieved Employees, Plaintiffs and other non-party Aggrieved Employees are
4 entitled to recover civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f),
5 and (g).

6 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

7 **VIOLATION OF LABOR CODE SECTION 204**

8 110. At all relevant times herein set forth, California Labor Code section 204 requires that all
9 wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any
10 calendar month, other than those wages due upon termination of an employee, are due and payable
11 between the 16th and the 26th day of the month during which the labor was performed. Labor Code
12 section 204 further provides that all wages earned by any person in any employment between the 16th
13 and the last day, inclusive, of any calendar month, other than those wages due upon termination of an
14 employee, are due and payable between the 1st and the 10th day of the following month.

15 111. At all relevant times herein, California Labor Code section 204 also requires that all
16 wages earned for labor in excess of the normal work period shall be paid no later than the payday for
17 the next regular payroll period. Alternatively, at all relevant times herein, Labor Code section 204
18 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly,
19 biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following
20 the close of the payroll period.

21 112. During the relevant time period, Defendants willfully failed to pay Plaintiffs and other
22 non-party Aggrieved Employees all wages due to them within any time period specified by California
23 Labor Code section 204 including, but not limited to, overtime wages, minimum wages, meal and rest
24 period premium wages, and/or reporting time pay.

25 113. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover
26 civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

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1 **FAILURE TO PAY WAGES UPON TERMINATION**
2 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

3 114. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if
4 an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
5 payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages
6 shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has
7 given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee
8 is entitled to his or her wages at the time of quitting.

9 115. Defendants willfully failed to pay Plaintiffs and other non-party Aggrieved Employees
10 who are no longer employed by Defendants the earned and unpaid wages set forth above, including but
11 not limited to, overtime wages, minimum wages, meal and rest period premium wages, and/or reporting
12 time pay either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants'
13 employ.

14 116. Defendants' failure to pay Plaintiffs and those non-party Aggrieved Employees who are
15 no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within
16 seventy-two (72) hours of their leaving Defendant's employ, violates Labor Code sections 201 and 202.
17 Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil penalties
18 pursuant to Labor Code sections 256 and/or 2699(a), (f), and (g).

19 **UNLAWFUL REQUIREMENT FOR RELEASE OF CLAIMS AS A CONDITION TO**
20 **RECEIVING WAGES**

21 **VIOLATION OF LABOR CODE SECTION 206.5**

22 117. California Labor Code section 206.5 prohibits employers from requiring employees to
23 execute releases of a claim or right "on account of wages due, or to become due, or made as an advance
24 on wages to be earned, unless payment of those wages has been made. A release required or executed
25 in violation of the provisions of this section shall be null and void as between the employer and the
26 employee."

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118. During the relevant time period, Defendants required Plaintiffs and other non-party Aggrieved Employees to release their claims for unpaid wages upon threat of discipline. Defendants maintained and implemented a written policy that required employees to sign a “Paycheck Acknowledge Form” within one (1) week of receipt of each paycheck. The policy provides, “I understand that **I may be disciplined, up to and including possible termination of employment**, if I fail to timely complete the Paycheck Acknowledgement form.” (Emphasis added.)

119. The Paycheck Acknowledgement Forms require each employee to attest that “I (1) reviewed my paycheck and had the opportunity to review daily time records and the Bi-weekly Edit Punch Report; (2) verified that the time and hours recorded on those documents accurately and fully identify all time that I have worked; (3) was authorized and permitted to take 10 minute rest breaks each day for every 4 hours of work or major fraction thereof; (4) was provided the opportunity to take meal breaks in accordance with the Company policy, and my meal breaks are accurately reflected in the time records; (5) on days that I did not work at least half my scheduled shift (minimum 2 hours, maximum 4 hours) (either in the form of regular wages or as Show Up Pay); and (6) have received all compensation I am due. . . . I further acknowledge that I have not violated the Company’s policy against working off the clock” regardless if they were provided with a compliant meal period, permitted or authorized to take a compliant rest period, paid reporting time pay, or worked off-the-clock. Defendants compelled Plaintiffs and other non-party Aggrieved Employees to sign this false verification when they, in fact, had not received all earned and unpaid wages, including meal and rest period premium wages and reporting time pay.

120. Defendants’ policy and practice of requiring Plaintiffs and other non-party Aggrieved Employees to release their claims for unpaid wages upon threat of discipline is in violation of California Labor Code section 206.5. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

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FAILURE TO PROVIDE SUITABLE SEATING
VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF
REGULATIONS, TITLE 8, SECTION 11050(14)(A)

121. At all relevant times herein, California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 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.”

122. California Code of Regulations, Title 8, section 11050(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

123. Plaintiffs allege that Defendants’ restaurants are generally similar in their layout and design and there was, and continues to be, space behind host stands to allow for the presence and use of a seat or stool by other non-party Aggrieved Employees (with reasonable or no modification to these work areas) during the performance of their work duties. Defendants could have provided other non-party Aggrieved Employees with a seat or stool at host stands, but instead denied them seating and forced other non-party Aggrieved Employees to stand throughout the day.

124. Other non-party Aggrieved Employees spent a substantial portion of their day behind these or at these host stands. The nature of the work of an employee performing host duties can reasonably be accomplished from a seated position. However, Defendants systematically, and on a company-wide basis, did not provide seats or stools at or near host stands, forcing other non-party Aggrieved Employees to stand throughout their work shifts.

125. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A), because other non-party Aggrieved Employees were not provided with suitable seats and, therefore effectively were not allowed to sit, even when it would not have interfered with the performance of their duties. Other non-party Aggrieved Employees were assigned host duties, which were performed from the host stand, and could have been performed from a seated position. Other non-party Aggrieved Employees could have provided

customer service at the host stand while seated without interference to their ability to complete these duties.

126. Defendants could have placed seats or stools at each host stand for use by other non-party Aggrieved Employees with reasonable or no modification to these work areas. However, on a company-wide basis, Defendants did not provide suitable seats or stools at or near host stands. Defendants' management did not inform other non-party Aggrieved Employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

127. As a result of Defendants' company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, other non-party Aggrieved Employees were forced to stand during shifts and denied seats. Defendants' failure to provide suitable seating to other non-party Aggrieved Employees violated and continues to violate California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(A).

128. Other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

FAILURE TO PROVIDE SUITABLE SEATING
VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF
REGULATIONS, TITLE 8, SECTION 11050(14)(B)

129. At all relevant times herein, California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 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."

130. California Code of Regulations, Title 8, section 11050(14)(B) provides that "[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties."

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1 131. During the relevant time period, Defendants violated California Labor Code section
2 1198 and California Code of Regulations, Title 8, section 11050(14)(B), because Plaintiffs and other
3 non-party Aggrieved Employees were not allowed to sit, even during lulls in their work duties, nor were
4 they provided with suitable seats in reasonable proximity to their work areas.

5 132. As stated, Plaintiffs allege that Defendants' California restaurants are generally similar
6 in their layout and design and there was, and continues to be, space near their work areas (with
7 reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool
8 by Plaintiffs and other non-party Aggrieved Employees during lulls in operation. Defendants could have
9 provided Plaintiffs and other non-party Aggrieved Employees with a seat or stool in their work areas,
10 but instead denied Plaintiffs and other non-party Aggrieved Employees suitable seating altogether and
11 effectively forced Plaintiffs and other non-party Aggrieved Employees to stand throughout the day.

12 133. Defendants did not provide Plaintiffs and other non-party Aggrieved Employees with
13 seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not
14 interfere with the performance of their duties for times when they were not engaged in active duties that
15 require standing. In other words, to the extent Plaintiffs and other non-party Aggrieved Employees
16 engaged in duties in which the nature of the work required standing, Defendants denied them the use of
17 suitable seats nearby during lulls in their work duties. Moreover, Defendants did not inform Plaintiffs
18 and other non-party Aggrieved Employees of their rights to a seat or stool under California law.

19 134. As a result of Defendants' company-wide policy and/or practice prohibiting employees
20 from sitting at any time, even when they were not engaged in active duties requiring standing, and
21 company-wide failure to provide seats in reasonable proximity to their work areas, Plaintiffs and other
22 non-party Aggrieved Employees were forced to stand during shifts and denied seats. Defendants' failure
23 to provide suitable seating to Plaintiffs and other non-party Aggrieved Employees violated and continues
24 to violate California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(B).

25 135. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover
26 civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

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FAILURE TO PAY REPORTING TIME PAY
VIOLATION OF LABOR CODE SECTION 1198

136. California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 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.”

137. California Code of Regulations, Title 8, section 11050(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.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

138. Upon information and belief, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5), because Defendants failed to pay Plaintiff Trejo and other non-party 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.

139. First, as described above, Defendants had a company-wide “on-call” policy, whereby they scheduled Plaintiff Trejo and other non-party Aggrieved Employees to work “on-call,” or on standby. When scheduled for an “on-call” or standby shift, Plaintiff Trejo and other non-party Aggrieved Employees regularly presented themselves as ready for work by waiting for the restaurant to call them or by calling in to the restaurant themselves two (2) hours prior to their scheduled standby shift and would await instructions on whether to go to the restaurant, but were ultimately not told to come in. When this occurred, Defendants did not pay Plaintiff Trejo and other non-party Aggrieved Employees for at least half of their scheduled day’s work when they were subject to Defendants’ “on-

1 call” policy and were ultimately not called.

2 140. Second, on information and belief, Defendants had a company-wide practice of sending
3 other non-party Aggrieved Employees home early from their shifts, including before they had worked
4 at least half of their regular shift, but would not pay other non-party Aggrieved Employees for half of
5 their scheduled shift due to Defendants’ labor budget. Although other non-party Aggrieved Employees
6 would report to work based on the schedule that Defendants provided to them, Defendants would send
7 them home before they had worked at least half of their scheduled shifts without giving them reporting
8 time pay. For example, other non-party Aggrieved Employees would occasionally report to work and
9 would be told to go home because business was slow, yet they were never paid for any of this time.
10 Accordingly, other non-party Aggrieved Employees were not properly compensated with reporting time
11 pay in violation of California Labor Code section 1198.

12 141. Plaintiff Trejo and other non-party Aggrieved Employees are therefore entitled to
13 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

14 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

15 **VIOLATION OF LABOR CODE SECTION 2802**

16 142. At all times herein set forth, California Labor Code section 2802 provides that an
17 employer must reimburse employees for all necessary expenditures and losses incurred by the employee
18 in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers
19 from passing off their cost of doing business and operating expenses on to their employees. *Cochran v.*
20 *Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC
21 Wage Order 5-2001, provides that: “[w]hen the employer requires the use of tools or equipment or they
22 are necessary to the performance of a job, such tools and equipment shall be provided and maintained
23 by the employer, except that an employee whose wages are at least two (2) times the minimum wage
24 may provide and maintain hand tools and equipment customarily required by the particular trade or
25 craft.”

26 143. First, during the relevant time period, Defendants, on a company-wide basis, required
27 Plaintiffs and other non-party Aggrieved Employees to report to work wearing clean uniforms while
28 simultaneously failing to provide employees with an adequate number of those uniforms. This forced

1 Plaintiffs and other non-party Aggrieved Employees to clean their uniforms frequently and incur
2 expenses for doing so. For example, Plaintiff Trejo was only given five (5) uniform jackets over the
3 course of his nearly 10-year employment. Due to the nature of his work, Plaintiff Trejo's uniforms
4 would become stained and/or acquire an unpleasant odor, and Plaintiff Trejo would be required to spend
5 \$30 every week to dry clean his uniform jackets. As a further example, Plaintiff Zaldana-Terauds was
6 only given one (1) uniform jacket over the course of his 10-month employment. Due to the nature of
7 his work, Plaintiff Zaldana-Terauds' uniform would also become stained and/or acquire an unpleasant
8 odor, and Plaintiff Zaldana-Terauds would be required to bleach and launder this uniform after every
9 shift.

10 144. Furthermore, Defendants failed to provide other non-party Aggrieved Employees with
11 an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required
12 to perform, forcing other non-party Aggrieved Employees to pay out-of-pocket for some of their uniform
13 components. For example, employees who had serving or bussing duties were required to bus tables by
14 carrying food, drinks, and trays, which would cause their uniforms to become worn and stained.
15 However, since Defendants did not provide an adequate number of uniform coats to other non-party
16 Aggrieved Employees, they were required to purchase additional uniform coats directly from Defendants
17 and were not reimbursed for these costs.

18 145. Second, during the relevant time period, Defendants, on a company-wide basis, forced
19 Plaintiff Trejo and other non-party Aggrieved Employees to purchase their own supplies in order to
20 complete their work-related duties. For example, Plaintiff Trejo would regularly have to purchase his
21 own microfiber cloths, spending approximately \$30 per year, in order to complete his work-related
22 duties, such as drying and polishing glasses. Although Defendants required Plaintiff Trejo to purchase
23 and use his own supplies on the job, they did not reimburse him for these expenses.

24 146. Defendants could have provided Plaintiffs and other non-party Aggrieved Employees
25 with the actual tools for use on the job, such as an adequate number of uniforms and/or laundering
26 services and restaurant supplies. Or, Defendants could have reimbursed employees for their uniform
27 and laundering expenses, and restaurant supplies. Instead, Defendants passed these operating costs off
28 onto Plaintiffs and other non-party Aggrieved Employees. At all relevant times, Plaintiffs did not earn

1 at least two (2) times the minimum wage. Thus, Defendants had, and continue to have, a company-wide
2 policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of
3 California Labor Code section 2802.

4 147. Plaintiffs and other non-party Aggrieved Employees are therefore entitled to recover
5 civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

6 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF EMPLOYMENT -**
7 **VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

8 148. California's Wage Theft Prevention Act was enacted to ensure that employers provide
9 employees with basic information material to their employment relationship at the time of hiring, and to
10 ensure that employees are given written and timely notice of any changes to basic information material
11 to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act
12 provides that at the time of hiring, an employer must provide written notice to employees containing
13 basic and material payroll information, including, among other things, the rate(s) of pay and basis
14 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
15 any rates for overtime, the regular payday designated by the employer, and any allowances claims as
16 part of the minimum wage, including meal or lodging allowances. Labor Code section 2810.5(a)(1)(A)-
17 (C).

18 149. Defendants failed to provide Plaintiff Zaldana-Terauds and other non-party Aggrieved
19 Employees written notice that lists all the requisite information set forth in Labor Code section
20 2810.5(a)(1)(A)-(C). Specifically, Defendants failed to provide Plaintiff Zaldana-Terauds with the rate
21 or rates of overtime pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form Defendants
22 provided to Plaintiff Zaldana-Terauds is blank where wage information should be filled in.

23 150. Defendants' failure to provide Plaintiff Zaldana-Terauds and other non-party Aggrieved
24 Employees with written notice of basic information regarding their employment with Defendants is in
25 violation of Labor Code section 2810.5. Plaintiff Zaldana-Terauds and other non-party Aggrieved
26 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f),
27 and (g).

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1 **REQUEST FOR JURY TRIAL**

2 Plaintiffs request a trial by jury.

3 **PRAYER FOR RELIEF**

4 Plaintiffs, on behalf of all other non-party Aggrieved Employees, pray for relief and judgment
5 against Defendants, jointly and severally, as follows:

6 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
7 (\$25,000). Plaintiffs reserve the right to amend their prayer for relief to seek a different amount.

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

9 1. That the Court declare, adjudge and decree that Defendants violated the following
10 California Labor Code provisions as to Plaintiffs and/or other non-party Aggrieved Employees: 510 and
11 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, and 1198 (by failing to pay at
12 least minimum wages for all hours worked); 226.7, 512, 516, and 1198 (by failing to provide all meal
13 periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and
14 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202,
15 and 203 (by failing timely to pay all earned wages upon termination); 204 (by failing timely to pay all
16 earned wages during employment); 206.5 (by requiring employees to execute a release of claims for
17 wages due); 1198 (by failing to provide suitable seating); 1198 (by failing to provide reporting time
18 pay); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide written notice
19 of information material to employment).

20 2. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256, 558,
21 1174.5, 1197.1, and 2699 (a), (f), and (g), for violations of California Labor Code sections 201, 202,
22 203, 204, 206.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5;

23 3. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and
24 any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201,
25 202, 203, 204, 206.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and
26 2810.5;

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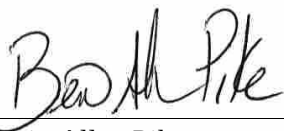
4. For pre-judgment and post-judgment interest as provided by law; and
5. For such other and further relief as the Court may deem equitable and appropriate.

Dated: October 9, 2020

Respectfully submitted,

Capstone Law APC

By: _____



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Orlando Villalba

Trisha Kathleen Monesi

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and Ian Zaldana-Terauds

EXHIBIT “1”



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August 4, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Jose Trejo v. Mastro's Restaurants, LLC, et al.*

Dear PAGA Administrator:

This office represents Jose Trejo in connection with his claims under the California Labor Code. Mr. Trejo was an employee of MASTRO'S RESTAURANTS, LLC; MASTRO'S MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; LANDRYS, INC.; LANDRY'S MANAGEMENT, L.P.; and/or LANDRY'S PAYROLL, INC. For the purpose of this letter, Mr. Trejo collectively refers to these entities as "MASTROS."

The employers may be contacted directly at the addresses below:

MASTRO'S RESTAURANTS, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

MASTRO'S MASON SFO RESTAURANT, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

MASTRO'S OC LA, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

LANDRYS, INC.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

LANDRY'S MANAGEMENT, L.P.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

LANDRY'S PAYROLL, INC.
1510 WEST LOOP S
HOUSTON, TX 77027

Mr. Trejo intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Trejo seeks relief on behalf of himself, the State of California, and other persons who are or were employed by MASTROS as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

MASTROS employed Mr. Trejo as an hourly paid, non-exempt employee from approximately June 2010 to March 2020. Mr. Trejo worked for MASTROS as a Server Assistant at the Mastro's Steakhouse restaurant located in Thousand Oaks, California. During his employment, Mr. Trejo typically worked five (5) to six (6) hours or more per day, five (5) days per week, from 3:00 p.m. to 9:00 p.m. Mr. Trejo earned \$10.00 per hour, plus tips. His job duties included, without limitation, cleaning and setting tables, attending to customers, boxing up food, and maintaining the dining premises.

MASTROS committed one or more of the following Labor Code violations against Mr. Trejo, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

MASTROS's Company-Wide and Uniform Payroll and HR Practices

MASTRO'S RESTAURANTS, LLC is a Nevada limited liability company, and LANDRY'S PAYROLL, INC. is a Texas corporation. LANDRY'S MANAGEMENT, L.P. is a Delaware limited partnership, LANDRYS, INC. is a Delaware corporation, and MASTRO'S OC LA, LLC and MASTRO'S MASON SFO RESTAURANT, LLC are Delaware limited liability companies. Together, they own and operate restaurants throughout California. Upon information and belief, MASTROS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Houston, Texas, for all non-exempt, hourly paid employees working for MASTROS in California, including Mr. Trejo and other aggrieved employees. At all relevant times, MASTROS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Trejo and other aggrieved employees, regardless of its location or position.

Upon information and belief, MASTROS maintains a centralized Payroll department at its corporate headquarters in Houston, Texas, which processes payroll for all non-exempt, hourly paid employees working for MASTROS in California, including Mr. Trejo and other aggrieved employees. Further, MASTROS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Trejo and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, MASTROS utilized the same methods and formulas when calculating wages due to Mr. Trejo 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 working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40)

¹ These facts, theories, and claims are based on Mr. Trejo's experience and counsel's review of those records currently available relating to Mr. Trejo's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Trejo reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working 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 remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

MASTROS willfully failed to pay all overtime wages owed to Mr. Trejo and other aggrieved employees. During the relevant time period, Mr. Trejo 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, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, MASTROS had a company-wide "on-call" policy, whereby it scheduled Mr. Trejo and other aggrieved employees to work "on-call," or on standby. These "on-call" shifts worked to MASTROS' benefit and to the detriment of Mr. Trejo and other aggrieved employees. By utilizing "on-call" shifts, MASTROS received the benefit of being able to maximize revenue by having a standby workforce they could choose to utilize or not, depending on restaurant traffic and sales metrics, without incurring the cost of compensating employees who show up to work and work a full or partial scheduled day's work.

When scheduled for an "on-call" or standby shift, Mr. Trejo and other aggrieved employees were required to wait for the restaurant to call them or to call the restaurant themselves two (2) hours before their scheduled standby shift to see if they were required to come in and work. Mr. Trejo and other aggrieved employees were engaged to wait and could not engage in personal activities as they had to be ready to travel to their respective restaurants on short notice and work their standby shift. When scheduled to be "on-call" for a standby shift, Mr. Trejo and other aggrieved employees were controlled by MASTROS because they were forced to put their lives on hold and could not use that time freely for their own purposes. For example, Mr. Trejo refrained from making plans altogether while "on-call" for a standby shift because he knew that he had to drop whatever he was doing at a moment's notice if he was instructed to work his standby shift. MASTROS did not pay Mr. Trejo and other aggrieved employees for the time they spent waiting to hear whether they needed to report to their restaurant for work on days they ultimately were not called in. MASTROS also did not compensate Mr. Trejo and other aggrieved employees for the time they spent calling in to see if they were needed.

Second, on information and belief, MASTROS had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by each restaurant's labor or payroll budget, which has resulted in and continues to result in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to customers. Additionally, MASTROS failed to schedule or failed to adhere to a schedule of meal periods, which further exacerbated this lack of meal period coverage. As a result of this lack of meal period coverage, other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period.

For example, when other aggrieved employees worked opening shifts, MASTROS allocated insufficient time for them to prepare the restaurant for service before their scheduled meal periods. MASTROS' management also scheduled mandatory meetings which were set for 15 minutes prior to the opening of the restaurant to customers. However, opening shift/restaurant preparation duties for

often took longer than the allotted time to complete due to understaffing, forcing other aggrieved employees to perform work during their meal periods. For instance, when other aggrieved employees worked opening shifts, they would be required to clock out at their designated meal period start time and continue finishing their preparation tasks, which could take an additional 15 minutes, before they were permitted to actually take their meal periods. Alternatively, on days when other aggrieved employees timely clocked out for meal periods upon completion of their preparation tasks, they were then required to report to the scheduled meetings, even though they were already clocked out for their meal periods. Thus, other aggrieved employees performed work during meal periods for which they were not paid.

Further, because MASTROS frowned upon employees accruing meal period penalties, MASTROS pressured other aggrieved employees who had signed invalid meal period waivers (*see infra*) to clock out at their scheduled shift end times, before they worked six (6) hours in day, in order to limit their eligibility for meal periods they otherwise would have received. Other aggrieved employees continued to perform their assigned tasks off-the-clock, after their scheduled shifts, because MASTROS wanted to avoid paying penalties for missed meal periods.

MASTROS knew or should have known that as a result of these company-wide practices and/or policies, Mr. Trejo and other aggrieved employees were working before and after their shifts and/or during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Trejo and other aggrieved employees sometimes 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 qualified for overtime premium pay. Therefore, Mr. Trejo and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, MASTROS did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, MASTROS paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, MASTROS failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, MASTROS failed to pay all overtime wages by paying a lower overtime rate than required.

Mr. Trejo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 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 so fixed is unlawful. Compensable work time is defined in Wage Order No. 5 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." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As set forth above, MASTROS had a company-wide "on-call" policy, whereby it required Mr. Trejo and other aggrieved employees to wait to be called by the restaurant or call in themselves two (2)

hours in advance when scheduled for standby shifts. When this occurred, Mr. Trejo and other aggrieved employees had to put their lives on hold and were restricted from using that time freely for their own purposes. Yet, MASTROS did not pay Mr. Trejo and other aggrieved employees at least minimum wages for the time they spent calling in or waiting to see if they were needed at the restaurant.

In addition, as stated above, due to MASTROS' company-wide policy and/or practice of utilizing labor budgets, resultant understaffing, lack of meal period coverage, and failure to schedule or failure to adhere to a schedule of meal periods, other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Also, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, MASTROS management pressured and/or instructed employees to clock out before they worked six (6) hours in day to limit their eligibility for meal periods, but required them to continue working, time for which they were not paid.

Thus, MASTROS did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, MASTROS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1. Accordingly, MASTROS regularly failed to pay at least minimum wages to Mr. Trejo 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.

Mr. Trejo and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal and rest period 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(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 after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period 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, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as stated above, MASTROS had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by each restaurant's labor or payroll budget, which has resulted in and continues to result in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the

workload and attend to customers. As a result of this lack of meal period coverage, other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period. Additionally, MASTROS failed to schedule or failed to adhere to a schedule of meal periods, resulting in other aggrieved employees waiting extended periods of time before taking meal periods due to the heavy workload. As a result, other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted and/or had to forgo their meal periods altogether. Furthermore, as described above, because MASTROS allotted an insufficient window of time for employees to prepare the dining premises for customers, take meal periods, and attend mandatory meetings, other aggrieved employees were required to work through 15 minutes of their meal periods during opening shifts in order to complete all of their assigned tasks before the restaurant opened to the public.

Second, on information and belief, because MASTROS frowned upon employees accruing meal period penalties, MASTROS management would pressure other aggrieved employees who had signed invalid meal period waivers (*see infra*) to clock out before they worked six (6) hours in day and continue working to limit their eligibility for meal periods, in order to strictly limit meal penalties that would need to be paid by MASTROS.

Third, MASTROS did not provide other Mr. Trejo and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Trejo and other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Mr. Trejo and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, MASTROS had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. MASTROS took the position that non-exempt, hourly paid employees had waived their rights to first and second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Specifically, MASTROS' "California Pay Laws and Meal Break Waiver Agreement" form provides that the waiver remains in effect until the employee provides his or her manager with advanced, written notice of his or her decision to revoke: "Should I choose to revoke this waiver, I agree to do so in writing." MASTROS's company-wide use of blanket meal period waivers signed at or near the time of hire and imposition on employees to revoke the waivers in writing, discouraged and impeded other aggrieved employees from taking all meal periods to which they were entitled. And, MASTROS' presumption that second meal periods would not be provided for shifts in excess of ten (10) hours but less than twelve (12) hours due to blanket meal period waivers discouraged Mr. Trejo and other aggrieved employees from taking second meal periods.

What's more, an employer's obligation to provide a meal break is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one

of these will render the employer liable for premium pay. *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)).

Further, under Labor Code section 512(a) and the applicable IWC Wage Order, employees may waive their second meal periods only if they took their first meal period. That MASTROS requires aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because MASTROS' obligation to provide Mr. Trejo and other aggrieved employees with meal periods did not arise until it had employed them for a full five (5) hours.

MASTROS knew or should have known that as a result of its company-wide policies and/or practices, that Mr. Trejo and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. MASTROS further knew or should have known that it did not pay Mr. Trejo and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted.

Furthermore, MASTROS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Trejo and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that MASTROS did pay meal period premium wages to other aggrieved employees, it did so at the incorrect rates. Because MASTROS did not properly calculate other aggrieved employees' regular rates of pay by including all remunerations, such as incentive pay and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, MASTROS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Trejo and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit 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 authorize and permit 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, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, MASTROS regularly failed to authorize and permit Mr. Trejo and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, MASTROS' company-wide practices, including understaffing while assigning heavy workloads, resulted in a lack of rest period coverage and prevented Mr. Trejo and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. MASTROS also failed to schedule rest periods, which, coupled with MASTROS' failure to provide adequate rest period coverage, further led to Mr. Trejo and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, MASTROS maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Trejo and other aggrieved employees remain on MASTROS' premises during their rest periods. For example, Mr. Trejo was expressly forbidden from leaving the restaurant premises while he was clocked in for his shifts. MASTROS' company-wide on-premises rest period policy prevented Mr. Trejo and other aggrieved employees from being relieved of all duties for rest periods and caused them to perform work during rest periods.

As a result, Mr. Trejo and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, throughout his employment, Mr. Trejo had to forego rest periods entirely, due to MASTROS' policy of understaffing while assigning heavy workloads, which constantly required him to attend to customers or maintain the dining premises.

MASTROS 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 authorized and permitted. Because of this practice and/or policy, Mr. Trejo and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that MASTROS did pay rest period premium wages to other aggrieved employees, it did so at the incorrect rates. Because MASTROS did not properly calculate other aggrieved employees' regular rates of pay by including all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, MASTROS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Trejo and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. MASTROS has not provided Mr. Trejo and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(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. Further, Labor Code section 226.3 provides that any employer who violates section 226(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(a).

During the relevant time period, MASTROS has knowingly and intentionally provided Mr. Trejo and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, MASTROS issued uniform wage statements to Mr. Trejo and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, MASTROS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

First, because MASTROS did not record the time Mr. Trejo and other aggrieved employees spent working off-the-clock, MASTROS did not list the correct amount of gross wages and net wages earned by Mr. Trejo and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, MASTROS failed to accurately list the total number of hours worked by Mr. Trejo and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because MASTROS did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, MASTROS did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). MASTROS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(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(d). During the relevant time period, and in violation of Labor Code section 1174(d), MASTROS willfully failed to maintain accurate payroll records for Mr. Trejo 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 further 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, MASTROS failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Trejo and/or other aggrieved employees, in violation of section 1198. Furthermore, in light of MASTROS’ failure to provide Mr. Trejo and other aggrieved employees with second 30-minute meal periods to which they were entitled, MASTROS kept no records of meal start and end times for second meal periods.

Because MASTROS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Trejo 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, Mr. Trejo 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.

Mr. Trejo and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 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, MASTROS failed to pay Mr. Trejo and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, reporting time pay, and meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Mr. Trejo and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(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.

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

Mr. Trejo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 206.5 – Release of Claims for Wages Due

California Labor Code section 206.5 prohibits employers from requiring employees to execute releases of a claim or right "on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee."

During the relevant time period, MASTROS required Mr. Trejo and other aggrieved employees to release their claims for unpaid wages upon threat of discipline. MASTROS maintained and implemented a written policy that required employees to sign a "Paycheck Acknowledge Form" within one (1) week of receipt of each paycheck. The policy provides, "I understand that **I may be disciplined, up to and including possible termination of employment**, if I fail to timely complete the Paycheck Acknowledgement form." (Emphasis added.)

The Paycheck Acknowledgement Forms require each aggrieved employee to attest that "I (1) reviewed my paycheck and had the opportunity to review daily time records and the Bi-weekly Edit Punch Report; (2) verified that the time and hours recorded on those documents accurately and fully identify all time that I have worked; (3) was authorized and permitted to take 10 minute rest breaks each day for every 4 hours of work or major fraction thereof; (4) was provided the opportunity to take meal breaks in accordance with the Company policy, and my meal breaks are accurately reflected in the time records; (5) on days that I did not work at least half my scheduled shift (minimum 2 hours, maximum 4 hours) (either in the form of regular wages or as Show Up Pay); and (6) have received all compensation I am due. . . . I further acknowledge that I have not violated the Company's policy against working off the clock" regardless if they were provided with a compliant meal period, permitted or authorized to take a compliant rest period, paid reporting time pay, or worked off-the-clock. MASTROS compelled Mr. Trejo and other aggrieved employees to sign this false verification when they, in fact, had not received all earned and unpaid wages, including meal and rest period premium wages and reporting time pay. MASTROS' policy and practice of requiring

Mr. Trejo and other aggrieved employees to release their claims for unpaid wages upon threat of discipline is in violation of California Labor Code section 206.5.

Mr. Trejo and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – 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 further 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 11050(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.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012)

Upon information and belief, MASTROS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5), because MASTROS failed to pay Mr. Trejo 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.

First, as described above, MASTROS had a company-wide “on-call” policy, whereby it scheduled Mr. Trejo and other aggrieved employees to work “on-call,” or on standby. When scheduled for an “on-call” or standby shift, Mr. Trejo and other aggrieved employees regularly presented themselves as ready for work by waiting for the restaurant to call them or by calling in to the restaurant themselves two (2) hours prior to their scheduled standby shift and would await instructions on whether to go to the restaurant, but were ultimately not told to come in. When this occurred, MASTROS did not pay Mr. Trejo and other aggrieved employees for at least half of their scheduled day’s work when they were subject to MASTROS’ “on-call” policy and were ultimately not called.

Second, on information and belief, MASTROS had a company-wide practice of sending other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay other aggrieved employees for half of their scheduled shift due to MASTROS’ labor budget. Although other aggrieved employees would report to work based on the schedule that MASTROS provided to them, MASTROS would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. For example, other aggrieved employees would occasionally report to work and would be told to go home because business was slow, yet they were never paid for any of this time. Accordingly, other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

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

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 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 11050(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

MASTROS’ California restaurants are generally similar in their layout and design and there was, and continues to be, space behind host stands to allow for the presence and use of a seat or stool by other aggrieved employees during the performance of their work duties. MASTROS could provide other aggrieved employees with a seat or stool at its host stands, with reasonable or no modification to these work areas, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

Other aggrieved employees spent a portion of their day behind or at these host stands. The nature of the work of an employee performing host duties can reasonably be accomplished from a seated position. However, as set forth herein, MASTROS systematically, and on a company-wide basis, does not provide seats or stools at or near host stands, forcing other aggrieved employees to stand throughout their work shifts.

MASTROS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A) because other aggrieved employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. MASTROS’ management did not inform other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of MASTROS’ company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, other aggrieved

employees were forced to stand during shifts and denied seats. MASTROS' failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(A).

Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring MASTROS into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 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 11050(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

As stated, MASTROS' California restaurants are generally similar in their layout and design and there was, and continues to be, space near their work areas to allow for the presence and use of a seat or stool by Mr. Trejo and other aggrieved employees during lulls in operation. MASTROS could provide Mr. Trejo and other aggrieved employees with a seat or stool in its work areas, with reasonable or no modification to these work areas, but instead denies employees seating and forced Mr. Trejo and other aggrieved employees to stand throughout the day.

MASTROS did not provide Mr. Trejo and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Mr. Trejo and other aggrieved employees engaged in duties in which the nature of the work required standing, MASTROS denied them the use of seats nearby during lulls in their work duties. Moreover, MASTROS did not inform Mr. Trejo and other aggrieved employees of their rights to a seat or stool under California law.

As a result of MASTROS' company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Mr. Trejo and other aggrieved employees were forced to stand during shifts and denied seats. MASTROS' failure

to provide suitable seating to Mr. Trejo and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(B).

Mr. Trejo and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring MASTROS into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (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.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 5-2001, 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."

First, during the relevant time period, MASTROS, on a company-wide basis, required Mr. Trejo and other aggrieved employees to report to work wearing clean uniforms while simultaneously failing to provide employees with an adequate number of those uniforms. This forced Mr. Trejo and other aggrieved employees to clean their uniforms frequently and incur expenses for doing so. For example, Mr. Trejo was only given five (5) uniform jackets over the course of his entire 10 years of employment. Due to the nature of his work, Mr. Trejo's uniforms would become stained and/or acquire an unpleasant odor, and Mr. Trejo would be required to spend \$30 every week to dry clean his uniform jackets.

Furthermore, MASTROS failed to provide other aggrieved employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, forcing other aggrieved employees to pay out-of-pocket for some of their uniform components. For example, employees who had serving or bussing duties were required to bus tables by carrying food, drinks, and trays, which would cause their uniforms to become worn and stained. However, since MASTROS did not provide an adequate number of uniform coats to other aggrieved employees, they were required to purchase additional uniform coats directly from MASTROS and were not reimbursed for these costs.

Second, during the relevant time period, MASTROS, on a company-wide basis, forced Mr. Trejo and other aggrieved employees to purchase their own supplies in order to complete their work-related duties. For example, Mr. Trejo would regularly have to purchase his own microfiber cloths, spending approximately \$30 per year, in order to complete his work-related duties, such as drying and polishing glasses. Although MASTROS required Mr. Trejo to purchase and use his own supplies on the job, it did not reimburse him for these expenses.

MASTROS could have provided Mr. Trejo and other aggrieved employees with the actual tools for use on the job, such as an adequate number of uniforms and/or laundering services and restaurant supplies. Or, MASTROS could have reimbursed employees for their uniform and laundering expenses, and restaurant supplies. Instead, MASTROS passed these operating costs off onto Mr.

Trejo and other aggrieved employees. At all relevant times, Mr. Trejo did not earn at least two (2) times the minimum wage.

Thus, MASTROS had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Trejo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – 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 claims 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.

MASTROS failed to provide other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, MASTROS failed to provide other aggrieved employees with the rate or rates of overtime pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form MASTROS provided to other aggrieved employees were blank where wage information should be filled in. MASTROS' failure to provide other aggrieved employees with written notice of basic information regarding their employment with MASTROS is in violation of Labor Code section 2810.5.

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

California Labor Code § 558(a)

California Labor Code section 558(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 . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . ." Labor Code section 558(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." MASTROS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Trejo's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Trejo seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Trejo, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against MASTROS for violations of California Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Trejo seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Mr. Trejo's reasonable attempt to settle his dispute with MASTROS prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform MASTROS of Mr. Trejo's aforementioned grievances and the proposed remedies as detailed below, while affording MASTROS a reasonable opportunity to satisfy Mr. Trejo's demands.

Demand is hereby made that MASTROS shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. MASTROS shall pay Mr. Trejo and all other aggrieved employees employed by MASTROS at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. MASTROS shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid reporting time pay.
3. MASTROS shall conduct a survey or interview all current and former aggrieved employees in California who worked for MASTROS in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for uniforms, uniform maintenance, and restaurant supply expenses, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. MASTROS shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512, 516, and 1198. MASTROS also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. MASTROS shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for MASTROS' benefit, including, but not limited to, costs of

uniforms, uniform maintenance or laundering costs, and restaurant supply expenses, as required by Labor Code section 2802.

6. MASTROS shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. MASTROS shall provide Mr. Trejo and all aggrieved employees employed by MASTROS at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. MASTROS shall cease the practice of requiring aggrieved employees to release their claims for unpaid wages upon threat of discipline (Labor Code section 206.5).
9. MASTROS shall implement and provide suitable seating to all aggrieved employees.
10. MASTROS shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
11. MASTROS shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
12. MASTROS shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 5-2001, section 20.

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

Julian Quattlebaum
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

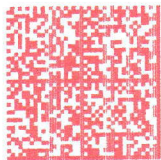
Best Regards,



Julian Quattlebaum

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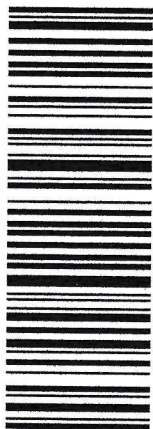
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 es, CA 90067

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LAW APC

Century Park East, Ste 1000
 Los Angeles, CA 90067



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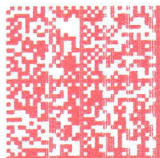
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 HOUSTON, TX 77027



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2. Article Number (Transfer from service label)

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- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

☐ Registered Mail
☐ Registered Mail Restricted Delivery
or \$500

Domestic Return Receipt



7019 2280 0000 7398 7104

LANDRY'S MANAGEMENT, L.P.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail OnlyFor delivery information, visit our website at www.usps.com®.**OFFICIAL USE**

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4®

LANDRY'S MANAGEMENT, L.P.

1510 WEST LOOP SOUTH

HOUSTON, TX 77027

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

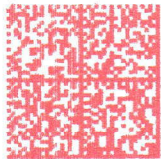
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HereTrejo v. Landry's
Management, L.P.

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LAW APC

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UNITED STATES POSTAGE
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MAILED FROM ZIP CODE 90067



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

LANDRY'S PAYROLL, INC.
1510 WEST LOOP S
HOUSTON, TX 77027



9590 9403 0424 5163 3662 87

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7098

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
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- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



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LANDRY'S PAYROLL, INC.
1510 WEST LOOP S
HOUSTON, TX 77027

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Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

LANDRY'S PAYROLL, INC.

Street and Apt. No., or PO Box No.

1510 WEST LOOP S

City, State, ZIP+4®

HOUSTON, TX 77027

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark
Here

Trejo v. Landry's
Payroll, Inc.

tone

LAW APC

ury Park East, Ste 1000
s, CA 90067

SENDER: COMPLETE THIS SECTION

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■ Print your name and address on the reverse so that we can return the card to you.

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1. Article Addressed to:

LANDRY'S PAYROLL, INC.
1510 WEST LOOP S
HOUSTON, TX 77027


9590 9403 0424 5163 3662 87

2. Article Number (Transfer from service label)
7019 2280 0000 7398 7098

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X COVID-19
☐ Agent
☐ Addressee

B. Received by (Printed Name)
AC. CARLICH

C. Date of Delivery
8/8/20

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery (per \$500)

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☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, April 2015 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LANDRY'S MANAGEMENT, L.P.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027


9590 9403 0424 5163 3662 94

2. Article Number (Transfer from service label)
7019 2280 0000 7398 7104

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X COVID-19
☐ Agent
☐ Addressee

B. Received by (Printed Name)
AC. CARLICH

C. Date of Delivery
8/8/20

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery (per \$500)

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, April 2015 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MASTRO'S RESTAURANTS, LLC
1510 WEST LOOP SOUTH
-HOUSTON, TX 77027


9590 9403 0424 5163 3663 48

2. Article Number (Transfer from service label)
7019 2280 0000 7398 7036

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X COVID-19
☐ Agent
☐ Addressee

B. Received by (Printed Name)
AC. CARLICH

C. Date of Delivery
8/8/20

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery (per \$500)

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, April 2015 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

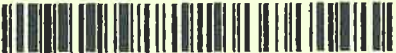
■ Complete items 1, 2, and 3.

■ Print your name and address on the reverse so that we can return the card to you.

■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MASTRO'S OC LA, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027


9590 9403 0424 5163 3663 17

2. Article Number (Transfer from service label)
7019 2280 0000 7398 7128

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X COVID-19
☐ Agent
☐ Addressee

B. Received by (Printed Name)
AC. CARLICH

C. Date of Delivery
8/8/20

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery (per \$500)

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☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, April 2015 PSN 7530-02-000-9053 Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LANDRYS, INC.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027



9590 9403 0424 5163 3663 00

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7111

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X COVID-19

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

AC CARRIER

C. Date of Delivery

8/18/20

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
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- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

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☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Receipt for

Confirmation™

☐ Restricted Delivery

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Complete items 1, 2, and 3.
 Print your name and address on the reverse
 so that we can return the card to you.
 Attach this card to the back of the mailpiece,
 or on the front if space permits.

Article Addressed to:

MASTER MASON SFO RESTAURANT,
 LLC
 1510 WEST LOOP SOUTH
 HOUSTON, TX 77027



9590 9403 0424 5163 3663 31

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7135

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X COVID-19

☐ Agent
☐ Addressee

B. Received by (Printed Name)

AC. CARRICH

C. Date of Delivery

8/8/20

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

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☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

EXHIBIT “2”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

JULIAN QUATTLEBAUM
310.712.8154 Direct
Julian.Quattlebaum@capstonelawyers.com

August 4, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Ian Zaldana-Terauds v. Mastro's Restaurants, LLC, et al.*

Dear PAGA Administrator:

This office represents Ian Zaldana-Terauds in connection with his claims under the California Labor Code. Mr. Zaldana-Terauds was an employee of MASTRO'S RESTAURANTS, LLC; MASTRO'S MASON SFO RESTAURANT, LLC; MASTRO'S OC LA, LLC; LANDRYS, INC.; LANDRY'S MANAGEMENT, L.P.; and/or LANDRY'S PAYROLL, INC. For the purpose of this letter, Mr. Zaldana-Terauds collectively refers to these entities as "MASTROS."

The employers may be contacted directly at the addresses below:

MASTRO'S RESTAURANTS, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

MASTRO'S MASON SFO RESTAURANT, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

MASTRO'S OC LA, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

LANDRYS, INC.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

LANDRY'S MANAGEMENT, L.P.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

LANDRY'S PAYROLL, INC.
1510 WEST LOOP S
HOUSTON, TX 77027

Mr. Zaldana-Terauds intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Zaldana-Terauds seeks relief on behalf of himself, the State of California, and other persons who are or were employed by MASTROS as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

MASTROS employed Mr. Zaldana-Terauds as an hourly paid, non-exempt employee from approximately April 2019 to February 2020. Mr. Zaldana-Terauds worked for MASTROS as a Server Assistant at the Mastro's Steakhouse restaurant located in Costa Mesa, California. During his employment, Mr. Zaldana-Terauds typically worked six (6) hours or more per day, four (4) to five (5) days per week, from 5:00 p.m. to 11:00 p.m. or 3:30 p.m. to 10:00 p.m. Mr. Zaldana-Terauds earned \$13.00 per hour, plus tips. His job duties included, without limitation, cleaning and setting tables, attending to customers, boxing up food, and assisting restaurant Servers.

MASTROS committed one or more of the following Labor Code violations against Mr. Zaldana-Terauds, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

MASTROS' Company-Wide and Uniform Payroll and HR Practices

MASTRO'S RESTAURANTS, LLC is a Nevada limited liability company, and LANDRY'S PAYROLL, INC. is a Texas corporation. LANDRY'S MANAGEMENT, L.P. is a Delaware limited partnership, LANDRYS, INC. is a Delaware corporation, and MASTRO'S OC LA, LLC and MASTRO'S MASON SFO RESTAURANT, LLC are Delaware limited liability companies. Together, they own and operate restaurants throughout California. Upon information and belief, MASTROS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Houston, Texas, for all non-exempt, hourly paid employees working for MASTROS in California, including Mr. Zaldana-Terauds and other aggrieved employees. At all relevant times, MASTROS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Zaldana-Terauds and other aggrieved employees, regardless of its location or position.

Upon information and belief, MASTROS maintains a centralized Payroll department at its corporate headquarters in Houston, Texas, which processes payroll for all non-exempt, hourly paid employees working for MASTROS in California, including Mr. Zaldana-Terauds and other aggrieved employees. Further, MASTROS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Zaldana-Terauds and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, MASTROS utilized the same methods and formulas when calculating wages due to Mr. Zaldana-Terauds 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 working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the

¹ These facts, theories, and claims are based on Mr. Zaldana-Terauds's experience and counsel's review of those records currently available relating to Mr. Zaldana-Terauds's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Zaldana-Terauds reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working 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 remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

MASTROS willfully failed to pay all overtime wages owed to Mr. Zaldana-Terauds and other aggrieved employees. During the relevant time period, Mr. Zaldana-Terauds 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, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, MASTROS had a company-wide "on-call" policy, whereby it scheduled other aggrieved employees to work "on-call," or on standby. These "on-call" shifts worked to MASTROS' benefit and to the detriment other aggrieved employees. By utilizing "on-call" shifts, MASTROS received the benefit of being able to maximize revenue by having an standby workforce they could choose to utilize or not, depending on restaurant traffic and sales metrics, without incurring the cost of compensating employees who show up to work and work a full or partial scheduled day's work.

When scheduled for a "on-call" or standby shift, other aggrieved employees were required to wait for the restaurant to call them or to call the restaurant themselves two (2) hours before their scheduled standby shift to see if they were required to come in and work. Other aggrieved employees were engaged to wait and could not engage in personal activities as they had to be ready to travel to their respective restaurants on short notice and work their standby shift. When scheduled to be on-call for a standby shift, other aggrieved employees were controlled by MASTROS because they were forced to put their lives on hold and could not use that time freely for their own purposes. For example, other aggrieved employees refrained from making plans altogether while "on-call" for a standby shift because they knew that they had to drop whatever they were doing at a moment's notice if they were instructed to work their standby shift. MASTROS did not pay other aggrieved employees for the time they spent waiting to hear whether they needed to report to their restaurant for work on days they ultimately were not called in. MASTROS also did not compensate other aggrieved employees for the time they spent calling in to see if they were needed.

Second, on information and belief, MASTROS had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by each restaurant's labor or payroll budget, which has resulted in and continues to result in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to customers. Additionally, MASTROS failed to schedule or failed to adhere to a schedule of meal periods, which further exacerbated this lack of meal period coverage. As a result of this lack of meal period coverage, Mr. Zaldana-Terauds and other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period.

For example, when Mr. Zaldana-Terauds and other aggrieved employees worked opening shifts, MASTROS allocated insufficient time for them to prepare the restaurant for service before their scheduled meal periods. MASTROS' management also scheduled mandatory meetings which were set for 15 minutes prior to the opening of the restaurant to customers. However, opening

shift/restaurant preparation duties often took longer than the allotted time to complete due to understaffing, forcing Mr. Zaldana-Terauds and other aggrieved employees to perform work and attend mandatory meetings during their unpaid meal periods. For instance, when Mr. Zaldana-Terauds and other aggrieved employees worked opening shifts, they would be required to clock out at their designated meal period start time and continue finishing their preparation tasks, which could take an additional 15 minutes, before they were actually able to take their meal periods. Alternatively, on days when Mr. Zaldana-Terauds and other aggrieved employees timely clocked out for meal periods upon completion of their preparation tasks, they were then required to report to the scheduled meetings, even though they were already clocked out for their meal periods, which could cut short their meal periods by 15 minutes. Thus, Mr. Zaldana-Terauds and other aggrieved employees performed work during meal periods for which they were not paid.

Further, because MASTROS frowned upon employees accruing meal period penalties, MASTROS pressured Mr. Zaldana-Terauds and other aggrieved employees who had signed invalid meal period waivers (*see infra*) to clock out before they worked six (6) hours in day in order to limit their eligibility for meal periods they otherwise would have received. For example, at least once per week, Mr. Zaldana-Terauds would be pressured to clock out and continue working for 15 minutes tending to customers and resetting tables, tasks he was required by MASTROS to complete before he could leave for the day. Mr. Zaldana-Terauds and other aggrieved employees would continue to perform their assigned tasks off-the-clock because MASTROS wanted to avoid paying penalties for missed meal periods.

MASTROS knew or should have known that as a result of these company-wide practices and/or policies, Mr. Zaldana-Terauds and other aggrieved employees were working before and after their shifts and/or during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Zaldana-Terauds and other aggrieved employees sometimes 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 qualified for overtime premium pay. Therefore, Mr. Zaldana-Terauds and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, MASTROS did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, MASTROS paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, MASTROS failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, MASTROS failed to pay all overtime wages by paying a lower overtime rate than required.

Mr. Zaldana-Terauds and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 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 so fixed is unlawful. Compensable work time is defined in Wage Order No. 5 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.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

As set forth above, MASTROS had a company-wide “on-call” policy, whereby it required other aggrieved employees to wait to be called or call in themselves two (2) hours before their scheduled standby shifts. When this occurred, other aggrieved employees had to put their lives on hold and were restricted from using that time freely for their own purposes. Yet, MASTROS did not pay other aggrieved employees at least minimum wages for the time they spent calling in or waiting to see if they were needed at the restaurant.

In addition, as stated above, due to MASTROS’ company-wide policy and/or practice of utilizing labor budgets, resultant understaffing, lack of meal period coverage, and failure to schedule or failure to adhere to a schedule of meal periods, Mr. Zaldana-Terauds and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Also, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, MASTROS’ management pressured and/or instructed employees to clock out before they worked six (6) hours in day to limit their eligibility for meal periods, but required them to continue working, time for which they were not paid.

Thus, MASTROS did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, MASTROS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1. Accordingly, MASTROS regularly failed to pay at least minimum wages to Mr. Zaldana-Terauds 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.

Mr. Zaldana-Terauds and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal and rest period 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(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 after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period 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, except that if the total hours worked is no more than

twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as stated above, MASTROS had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by each restaurant's labor or payroll budget, which has resulted in and continues to result in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to customers. As a result of this lack of meal period coverage, Mr. Zaldana-Terauds and other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period. Additionally, MASTROS failed to schedule or failed to adhere to a schedule of meal periods, resulting in Mr. Zaldana-Terauds and/or other aggrieved employees waiting extended periods of time before taking meal periods and, at times, had their meal periods interrupted and/or had to forgo their meal periods altogether. For example, Mr. Zaldana-Terauds would miss meal periods 3-4 times per week either because MASTROS did not provide him meal period to which he was entitled, or because he was required to complete all of the work-related duties MASTROS assigned him. Furthermore, as described above, because MASTROS allotted an insufficient window of time for employees to prepare the dining premises for customers, take meal periods, and attend mandatory meetings, Mr. Zaldana-Terauds and other aggrieved employees were required to work through 15 minutes of their meal periods during opening shifts in order to complete all of their assigned tasks before the restaurant opened to the public.

Second, on information and belief, because MASTROS frowned upon employees accruing meal period penalties, MASTROS' management would pressure Mr. Zaldana-Terauds and other aggrieved employees who had signed invalid meal period waivers (*see infra*) to clock out before they worked six (6) hours in day and continue working to limit their eligibility for meal periods, in order to strictly limit meal penalties that would need to be paid by MASTROS.

Third, MASTROS did not provide Mr. Zaldana-Terauds and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Zaldana-Terauds and other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Mr. Zaldana-Terauds and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, MASTROS had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. MASTROS took the position that non-exempt, hourly paid employees had waived their rights to first and second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Specifically, MASTROS' "California Pay Laws and Meal Break Waiver Agreement" form provides that the waiver remains in effect until the employee provides his or her manager with advanced, written notice of his or her decision to revoke: "Should I choose to revoke this waiver, I agree to do so in writing." MASTROS' company-wide use of blanket meal period waivers signed at or near the time of hire and imposition on employees to revoke the waivers in writing, discouraged and impeded other aggrieved employees from taking all meal periods to which they were entitled. And, MASTROS' presumption that second meal periods would not be provided for shifts in excess of ten (10) hours but less than twelve (12) hours due to blanket meal period waivers discouraged Mr. Zaldana-Terauds and other aggrieved employees from taking second meal periods.

What's more, an employer's obligation to provide a meal break is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay. *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)).

Further, under Labor Code section 512(a) and the applicable IWC Wage Order, employees may waive their second meal periods only if they took their first meal period. That MASTROS requires aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because MASTROS' obligation to provide Mr. Zaldana-Terauds and other aggrieved employees with meal periods did not arise until it had employed them for a full five (5) hours.

MASTROS knew or should have known that as a result of its company-wide policies and/or practices, that Mr. Zaldana-Terauds and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. MASTROS further knew or should have known that it did not pay Mr. Zaldana-Terauds and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted.

Furthermore, MASTROS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Zaldana-Terauds and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that MASTROS did pay meal period premium wages to other aggrieved employees, it did so at the incorrect rates. Because MASTROS did not properly calculate other aggrieved employees' regular rates of pay by including all remunerations, such as incentive pay and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, MASTROS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Zaldana-Terauds and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit 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 authorize and permit 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, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, MASTROS regularly failed to authorize and permit Mr. Zaldana-Terauds and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, MASTROS’ company-wide practices, including understaffing while assigning heavy workloads, resulted in a lack of rest period coverage and prevented Mr. Zaldana-Terauds and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. MASTROS also failed to schedule rest periods, which, coupled with MASTROS’ failure to provide adequate rest period coverage, further led to Mr. Zaldana-Terauds and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, MASTROS maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Zaldana-Terauds and other aggrieved employees remain on MASTROS’ premises during their rest periods. MASTROS’ company-wide on-premises rest period policy prevented Mr. Zaldana-Terauds and other aggrieved employees from being relieved of all duties for rest periods and caused them to perform work during rest periods.

As a result, Mr. Zaldana-Terauds and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, throughout his employment, Mr. Zaldana-Terauds had to forego rest periods entirely, due to MASTROS’ policy of understaffing while assigning heavy workloads, which constantly required him to attend to customers or maintain the restaurant dining premises.

MASTROS 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 authorized and permitted. Because of this practice and/or policy, Mr. Zaldana-Terauds and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that MASTROS did pay rest period premium wages to other aggrieved employees, it did so at the incorrect rates. Because MASTROS did not properly calculate other aggrieved employees’ regular rates of pay by including all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, MASTROS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Zaldana-Terauds and other aggrieved employees are entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. MASTROS has not provided Mr. Zaldana-Terauds and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(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. Further, Labor Code section 226.3 provides that any employer who violates section 226(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(a).

During the relevant time period, MASTROS has knowingly and intentionally provided Mr. Zaldana-Terauds and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, MASTROS issued uniform wage statements to Mr. Zaldana-Terauds and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, MASTROS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

First, because MASTROS did not record the time Mr. Zaldana-Terauds and other aggrieved employees spent working off-the-clock, MASTROS did not list the correct amount of gross wages and net wages earned by Mr. Zaldana-Terauds and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, MASTROS failed to accurately list the total number of hours worked by Mr. Zaldana-Terauds and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because MASTROS did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, MASTROS did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). MASTROS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(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(d). During the relevant time period, and in violation of Labor Code section 1174(d), MASTROS willfully failed to maintain accurate payroll records for Mr. Zaldana-Terauds 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 further 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, MASTROS failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Zaldana-Terauds and/or other aggrieved employees, in violation of section 1198. Furthermore, in light of MASTROS’ failure to provide Mr. Zaldana-Terauds and other aggrieved employees with second 30-minute meal periods to which they were entitled, MASTROS kept no records of meal start and end times for second meal periods.

Because MASTROS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Zaldana-Terauds 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, Mr. Zaldana-Terauds 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.

Mr. Zaldana-Terauds and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 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, MASTROS failed to pay Mr. Zaldana-Terauds and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, reporting time pay, and/or meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Mr. Zaldana-Terauds and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(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.

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

Mr. Zaldana-Terauds and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 206.5 – Release of Claims for Wages Due

California Labor Code section 206.5 prohibits employers from requiring employees to execute releases of a claim or right "on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee."

During the relevant time period, MASTROS required Mr. Zaldana-Terauds and other aggrieved employees to release their claims for unpaid wages upon threat of discipline. MASTROS maintained and implemented a written policy that required employees to sign a "Paycheck Acknowledge Form" within one (1) week of receipt of each paycheck. The policy provides, "I understand that **I may be disciplined, up to and including possible termination of employment**, if I fail to timely complete the Paycheck Acknowledgement form." (Emphasis added.)

The Paycheck Acknowledgement Forms require each aggrieved employee to attest that "I (1) reviewed my paycheck and had the opportunity to review daily time records and the Bi-weekly Edit Punch Report; (2) verified that the time and hours recorded on those documents accurately and fully identify all time that I have worked; (3) was authorized and permitted to take 10 minute rest breaks

each day for every 4 hours of work or major fraction thereof; (4) was provided the opportunity to take meal breaks in accordance with the Company policy, and my meal breaks are accurately reflected in the time records; (5) on days that I did not work at least half my scheduled shift (minimum 2 hours, maximum 4 hours) (either in the form of regular wages or as Show Up Pay); and (6) have received all compensation I am due. . . . I further acknowledge that I have not violated the Company's policy against working off the clock" regardless if they were provided with a compliant meal period, permitted or authorized to take a compliant rest period, paid reporting time pay, or worked off-the-clock. MASTROS compelled Mr. Zaldana-Terauds and other aggrieved employees to sign this false verification when they, in fact, had not received all earned and unpaid wages, including meal and rest period premium wages and reporting time pay. MASTROS' policy and practice of requiring Mr. Zaldana-Terauds and other aggrieved employees to release their claims for unpaid wages upon threat of discipline is in violation of California Labor Code section 206.5.

Mr. Zaldana-Terauds and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – 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 further 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 11050(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.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012)

Upon information and belief, MASTROS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5), because MASTROS failed to pay 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.

First, as described above, MASTROS had a company-wide “on-call” policy, whereby it scheduled other aggrieved employees to work “on-call,” or on standby. When scheduled for an “on-call” or standby shift, other aggrieved employees regularly presented themselves as ready for work by waiting for the restaurant to call them or by calling the restaurant themselves two (2) hours prior to their scheduled standby shift and would await instructions on whether to go to the restaurant, but were ultimately not told to come in. When this occurred, MASTROS did not pay other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay when they were subject to MASTROS's “on-call” policy and were ultimately not called.

Second, on information and belief, MASTROS had a company-wide practice of sending other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay other aggrieved employees for half of their scheduled shift due to MASTROS' labor budget. Although other aggrieved employees would report to work based on the schedule that MASTROS provided to them, MASTROS would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. For example, other aggrieved employees would occasionally report to work and would be told to go home because business was slow, yet they were never paid for any of this time. Accordingly, other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

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

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 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 11050(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

“The ‘nature of the work’ refers to an employee’s tasks performed at a given location for which a right to a suitable seat is claimed, rather than a ‘holistic’ consideration of the entire range of an employee’s duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for.” *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). “Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer’s business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee’s characteristics.” *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is “infeasible because no suitable seating exists.” *See id.*

MASTROS' California restaurants are generally similar in their layout and design and there was, and continues to be, space behind host stands to allow for the presence and use of a seat or stool by other aggrieved employees during the performance of their work duties. MASTROS could provide other aggrieved employees with a seat or stool at its host stands, with reasonable or no modification to these work areas, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

Other aggrieved employees spent a portion of their day behind or at these host stands. The nature of the work of an employee performing host duties can reasonably be accomplished from a seated position. However, as set forth herein, MASTROS systematically, and on a company-wide basis,

does not provide seats or stools at or near host stands, forcing other aggrieved employees to stand throughout their work shifts.

MASTROS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A) because other aggrieved employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. MASTROS' management did not inform other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of MASTROS' company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, other aggrieved employees were forced to stand during shifts and denied seats. MASTROS' failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(A).

Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring MASTROS into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 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 11050(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

As stated, MASTROS' California restaurants are generally similar in their layout and design and there was, and continues to be, space near their work areas to allow for the presence and use of a seat or stool by Mr. Zaldana-Terauds and other aggrieved employees during lulls in operation. MASTROS could provide Mr. Zaldana-Terauds and other aggrieved employees with a seat or stool in its work areas, with reasonable or no modification to these work areas, but instead denies employees seating and forced Mr. Zaldana-Terauds and other aggrieved employees to stand throughout the day.

MASTROS did not provide Mr. Zaldana-Terauds and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Mr. Zaldana-Terauds and other aggrieved employees engaged in duties in which the nature of the work required standing, MASTROS denied them the use of seats nearby during lulls in their work duties. Moreover, MASTROS did not inform Mr. Zaldana-Terauds and other aggrieved employees of their rights to a seat or stool under California law.

As a result of MASTROS' company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Mr. Zaldana-Terauds and other aggrieved employees were forced to stand during shifts and denied seats. MASTROS' failure to provide suitable seating to Mr. Zaldana-Terauds and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(B).

Mr. Zaldana-Terauds and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring MASTROS into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (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.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 5-2001, 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."

First, during the relevant time period, MASTROS, on a company-wide basis, required Mr. Zaldana-Terauds and other aggrieved employees to report to work wearing clean uniforms while simultaneously failing to provide employees with an adequate number of those uniforms. This forced Mr. Zaldana-Terauds and other aggrieved employees to clean their uniforms frequently and incur expenses for doing so. For example, Mr. Zaldana-Terauds was only given one (1) uniform jacket over the course of his 10 months of employment. Due to the nature of his work, Mr. Zaldana-Terauds' uniform would become stained and/or acquire an unpleasant odor, and Mr. Zaldana-Terauds would be required to bleach and launder this uniform after every shift.

Furthermore, MASTROS failed to provide other aggrieved employees with an adequate number of uniforms in relation to their scheduled shifts and for the tasks they were required to perform, forcing other aggrieved employees to pay out-of-pocket for some of their uniform components. For example, employees who had serving or bussing duties were required to bus tables by carrying food, drinks, and trays, which would cause their uniforms to become worn and stained. However, since MASTROS did not provide an adequate number of uniform coats to other aggrieved employees, they

were required to purchase additional uniform coats directly from MASTROS and were not reimbursed for these costs.

Second, during the relevant time period, MASTROS, on a company-wide basis, forced other aggrieved employees to purchase their own supplies in order to complete their work-related duties, such as microfiber cloths. Although MASTROS required other aggrieved employees to purchase and use their own supplies on the job, it did not reimburse them for these expenses.

MASTROS could have provided Mr. Zaldana-Terauds and other aggrieved employees with the actual tools for use on the job, such as an adequate number of uniforms and/or laundering services and restaurant supplies. Or, MASTROS could have reimbursed employees for their uniform and laundering expenses, and restaurant supplies. Instead, MASTROS passed these operating costs off onto Mr. Zaldana-Terauds and other aggrieved employees. At all relevant times, Mr. Zaldana-Terauds did not earn at least two (2) times the minimum wage.

Thus, MASTROS had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Zaldana-Terauds and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – 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 claims 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.

MASTROS failed to provide Mr. Zaldana-Terauds and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, MASTROS failed to provide Mr. Zaldana-Terauds with the rate or rates of overtime pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form MASTROS provided to Mr. Zaldana-Terauds is blank where wage information should be filled in. MASTROS' failure to provide Mr. Zaldana-Terauds and other aggrieved employees with written notice of basic information regarding their employment with MASTROS is in violation of Labor Code section 2810.5.

Mr. Zaldana-Terauds and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(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 . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid . . .” Labor Code section 558(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.” MASTROS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Zaldana-Terauds’ and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Zaldana-Terauds seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Zaldana-Terauds, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against MASTROS for violations of California Labor Code sections 201, 202, 203, 204, 206.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Zaldana-Terauds seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Mr. Zaldana-Terauds’ reasonable attempt to settle his dispute with MASTROS prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform MASTROS of Mr. Zaldana-Terauds’ aforementioned grievances and the proposed remedies as detailed below, while affording MASTROS a reasonable opportunity to satisfy Mr. Zaldana-Terauds’ demands.

Demand is hereby made that MASTROS shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. MASTROS shall pay Mr. Zaldana-Terauds and all other aggrieved employees employed by MASTROS at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. MASTROS shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid reporting time pay.
3. MASTROS shall conduct a survey or interview all current and former aggrieved employees in California who worked for MASTROS in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized

and permitted; and the number of employees who were required to pay for uniforms, uniform maintenance, and restaurant supply expenses, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. MASTROS shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512, 516, and 1198. MASTROS also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. MASTROS shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for MASTROS's benefit, including, but not limited to, costs of uniforms, uniform maintenance or laundering costs, and restaurant supply expenses, as required by Labor Code section 2802.
6. MASTROS shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. MASTROS shall provide Mr. Zaldana-Terauds and all aggrieved employees employed by MASTROS at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. MASTROS shall cease the practice of requiring aggrieved employees to release their claims for unpaid wages upon threat of discipline (Labor Code section 206.5).
9. MASTROS shall implement and provide suitable seating to all aggrieved employees.
10. MASTROS shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
11. MASTROS shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
12. MASTROS shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 5-2001, section 20.

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

Julian Quattlebaum
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read 'Julian Quattlebaum', is positioned above a thin horizontal line.

Julian Quattlebaum

Copy: MASTRO'S RESTAURANTS, LLC (via U.S. Certified Mail); MASTRO'S MASON SFO RESTAURANT, LLC. (via U.S. Certified Mail); MASTRO'S OC LA, LLC (via U.S. Certified Mail); LANDRYS, INC. (via U.S. Certified Mail); LANDRY'S MANAGEMENT, L.P. (via U.S. Certified Mail); LANDRY'S PAYROLL, INC. (via U.S. Certified Mail)



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MASTRO'S RESTAURANTS, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027



9590 9403 0424 5163 3662 70

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7081

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|---|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (\$500) | |

Domestic Return Receipt



7019 2280 0000 7398 7081

MASTRO'S RESTAURANTS, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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For delivery information, visit our website at www.usps.com®.**OFFICIAL USE**

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- | | |
|---|---------|
| ☒ Return Receipt (hardcopy) | \$ 2.80 |
| ☐ Return Receipt (electronic) | \$ |
| ☐ Certified Mail Restricted Delivery | \$ |
| ☐ Adult Signature Required | \$ |
| ☐ Adult Signature Restricted Delivery | \$ |

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

MASTRO'S RESTAURANTS, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

PS Form 3800, April 2015 PSN 7530-02-000-9047

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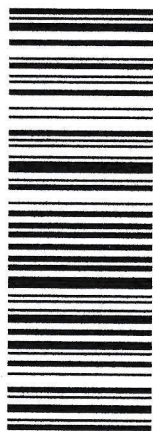
Zaldana-Torres v.
Mastro's Restaurant
LLC

stone

LAW APC

Century Park East, Ste 1000
Irvine, CA 90067

CERTIFIED MAIL®



7019 2280 0000 7398 7074

tone
LAW APC
ury Park East, Ste 1000
s, CA 90067



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1. Article Addressed to:

MASTRO'S MASON SFO RESTAURANT,
LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027



9590 9403 0424 5163 3662 63

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7074

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A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Registered Mail
- ☐ Registered Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

MASTRO'S MASON SFO RESTAURANT, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

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Extra Services & Fees (check box, add fee as appropriate)

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- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
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- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

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City, State, ZIP+4®

MASTRO'S MASON SFO RESTAURANT,
LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

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Zaldana-Terauds V.
Mastro's Mason SFO
Restaurant, LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

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7019 2280 0000 7398 7067

tone
LAW APC
ury Park East, Ste 1000
s, CA 90067

MASTRO'S OC LA, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027



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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

MASTRO'S OC LA, LLC
1510 WEST LOOP SOUTH
HOUSTON, TX 77027



9590 9403 0424 5163 3662 56

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7067

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A. Signature

X

- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

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Extra Services & Fees (check box, add fee as appropriate)

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- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

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MASTRO'S OC LA, LLC

Street and Apt. No., or PO Box No.

1510 WEST LOOP SOUTH

City, State, ZIP+4®

HOUSTON, TX 77027

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Zaldana-Terands v.
Mastro's OC LA,
LLC

7019 2280 0000 7398 7067



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1. Article Addressed to:

LANDRYS, INC.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027



9590 9403 0424 5163 3662 49

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7050

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A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

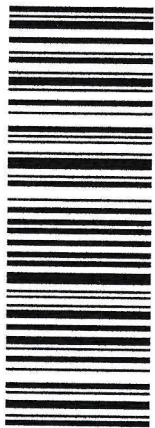
3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL®



7019 2280 0000 7398 7050

LANDRYS, INC.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

stone
LAW APC
Century Park East, Ste 1000
Houston, TX 77056

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

LANDRYS, INC.
Street and Apt. No., or PO Box No.
1510 WEST LOOP SOUTH
City, State, ZIP+4®
HOUSTON, TX 77027

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Zaldana-Terands v
Landrys, Inc.

PS Form 3800, April 2015 PSN 7530-02-000-9047

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7019 2280 0000 7398 7043

stone
LAW APC
Century Park East, Ste 1000
Fresno, CA 93707



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1. Article Addressed to:

LANDRY'S MANAGEMENT, L.P.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027



9590 9403 0424 5163 3662 32

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7043

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Registered Mail®
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation®
- ☐ Signature Confirmation Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Registered Mail
Registered Mail Restricted Delivery
or \$500

Domestic Return Receipt

LANDRY'S MANAGEMENT, L.P.
1510 WEST LOOP SOUTH
HOUSTON, TX 77027

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Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

LANDRY'S MANAGEMENT, L.P.

Street and Apt. No., or PO Box No.

1510 WEST LOOP SOUTH

City, State, ZIP+4®

HOUSTON, TX 77027

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark

Here
Zaldana-Terauds V.
Landry's Management
L.P.

7019 2280 0000 7398 7043

CERTIFIED MAIL®



7019 2280 0000 7398 7029

stone
LAW APC
Century Park East, Ste 1000
Irvine, CA 90067



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1. Article Addressed to:

LANDRY'S PAYROLL, INC.
1510 WEST LOOP S
HOUSTON, TX 77027



9590 9403 0424 5163 3664 09

2. Article Number (Transfer from service label)

7019 2280 0000 7398 7029

PS Form 3811, April 2015 PSN 7530-02-000-9053

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A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

☐ Insured Mail
☐ Insured Mail Restricted Delivery
or \$500

Domestic Return Receipt

LANDRY'S PAYROLL, INC.
1510 WEST LOOP S
HOUSTON, TX 77027

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For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$ 3.50

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.80
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 7.93

Sent To

LANDRY'S PAYROLL, INC.

Street and Apt. No., or PO Box No.

1510 WEST LOOP S

City, State, ZIP+4®

HOUSTON, TX 77027

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

Postmark
Here

Zaldum-Terands V
Landry's Payroll,
Inc.

7019 2280 0000 7398 7029

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY			
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <u>COVID-19</u> ☐ Agent ☐ Addressee <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">B. Received by (Printed Name) <u>AC CARRIEA</u></td> <td style="width: 50%; padding: 2px;">C. Date of Delivery <u>8/8/20</u></td> </tr> </table> D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No		B. Received by (Printed Name) <u>AC CARRIEA</u>	C. Date of Delivery <u>8/8/20</u>
B. Received by (Printed Name) <u>AC CARRIEA</u>	C. Date of Delivery <u>8/8/20</u>				
1. Article Addressed to: MASTRO'S RESTAURANTS, LLC 1510 WEST LOOP SOUTH HOUSTON, TX 77027		1. Article Addressed to: LANDRYS, INC. 1510 WEST LOOP SOUTH HOUSTON, TX 77027			
 9590 9403 0424 5163 3662 70		 9590 9403 0424 5163 3662 49			
2. Article Number (Transfer from service label) 7019 2280 0000 7398 7081		2. Article Number (Transfer from service label) 7019 2280 0000 7398 7050			
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Registered Mail ☐ Registered Mail Restricted Delivery (\$500)		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery			

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X <u>COVID - 19</u> ☐ Agent ☐ Addressee B. Received by (Printed Name) <u>AC. CARLIER</u> C. Date of Delivery <u>8/18/20</u> D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature X <u>COVID - 19</u> ☐ Agent ☐ Addressee B. Received by (Printed Name) <u>AC. CARLIER</u> C. Date of Delivery <u>8/18/20</u> D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
1. Article Addressed to: MASTRO'S MASON SFO RESTAURANT, LLC 1510 WEST LOOP SOUTH HOUSTON, TX 77027	3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Insured Mail Restricted Delivery (over \$500)	1. Article Addressed to: MASTRO'S OC LA, LLC 1510 WEST LOOP SOUTH HOUSTON, TX 77027	3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Insured Mail Restricted Delivery (over \$500)
2. Article Number (Transfer from service label) 7019 2280 0000 7398 7074	Barcode:  9590 9403 0424 5163 3662 63	2. Article Number (Transfer from service label) 7019 2280 0000 7398 7067	Barcode:  9590 9403 0424 5163 3662 56