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and JENNIFER VARGAS, on behalf of
7 themselves and all others similarly situated

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Superior Court of California
County of Los Angeles

AUG 22 2018

Sherri R. Carter, Executive Officer/Clerk of Court
By: Isaac Lovo, Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

10
11 AMBER PARDUE and JENNIFER
12 VARGAS, on behalf of themselves and all
others similarly situated,

13 Plaintiffs,

14 v.

15 CBC RESTAURANT CORP., a Delaware
16 corporation; JULIANA ZHU, an individual;
and DOES 1 through 100, inclusive.

17 Defendants.
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CASE NO.: BC693274 *SSC-9*

CLASS ACTION

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. FAILURE TO PAY DUE WAGES AT TERMINATION;
6. FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS;
7. VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *et seq.*; and
8. PENALTIES PER LABOR CODE § 558;
9. PENALTIES PER LABOR CODE § 1197.1; and
10. PENALTIES PER LABOR CODE § 2699

DEMAND FOR JURY TRIAL

25
26 COME NOW Plaintiffs AMBER PARDUE (“Ms. Pardue”) and JENNIFER VARGAS
27 (“Ms. Vargas” and, collectively with Pardue, “Plaintiffs”), on behalf of themselves and all others
28 similarly situated, and allege as follows:

INTRODUCTION

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2 1. This is a Class Action, pursuant to California Code of Civil Procedure section 382,
3 and representative action pursuant to Labor Code sections 558, 1197.1, and 2699 on behalf of
4 Plaintiffs and all other current and former similarly situated employees and aggrieved employees
5 employed by or formerly employed by CBC RESTAURANT CORP., a Delaware corporation, and
6 any of its respective subsidiaries or affiliated companies within the State of California ("Corner
7 Bakery"), at its location at 12375 South Main Street, Rancho Cucamonga, California, 91739 (the
8 "Rancho Cucamonga Location").

9 2. For at least four (4) years prior to the filing of this action and continuing to the
10 present, the Corner Bakery Defendants have had a consistent policy or practice of failing to pay
11 overtime wages to Plaintiffs and other non-exempt employees in the State of California working at
12 or from the Rancho Cucamonga location in violation of California state wage and hour laws as a
13 result of, without limitation, Plaintiffs and similarly situated employees routinely working over
14 eight (8) hours per day or forty (40) hours per week without being properly compensated for hours
15 worked in excess of (8) hours per day or forty (40) hours per week by, among other things, failing
16 to accurately track all hours worked, failing to pay for all tracked hours worked, requiring
17 employees to work off-the-clock, auto-deducting pay for worked time, manipulating, editing, or
18 otherwise rounding tracked time entries to employees' detriment.

19 3. For at least four (4) years prior to the filing of this action and continuing to the
20 present, the Corner Bakery Defendants have had a consistent policy of failing to pay minimum
21 wages, to Plaintiffs and other non-exempt employees in the State of California working at or from
22 the Rancho Cucamonga Location in violation of California state wage and hour laws as a result of,
23 including but not limited to, failing to accurately track all hours worked, failing to pay for all
24 tracked hours worked, requiring employees to work off-the-clock, auto-deducting pay for worked
25 time, and manipulating, editing, or otherwise rounding tracked time entries to employees'
26 detriment.

27 4. For at least four (4) years prior to the filing of this action and continuing to the
28 present, the Corner Bakery Defendants have had a consistent policy of failing to provide Plaintiffs

1 and other similarly situated employees or former employees within the State of California working
2 at or from the Rancho Cucamonga Location a thirty (30) minute uninterrupted meal period for
3 days on which the employees worked more than five (5) hours in a work day and a second thirty
4 (30) minute uninterrupted meal period for days on which employees worked in excess of ten (10)
5 hours in a work day, and failing to provide compensation for such unprovided meal periods as
6 required by California wage and hour laws.

7 5. For at least four (4) years prior to the filing of this action and continuing to the
8 present, the Corner Bakery Defendants have had a consistent policy of failing to provide Plaintiffs
9 and similarly situated employees or former employees within the State of California working at or
10 from the Rancho Cucamonga Location with rest periods of at least ten (10) minutes per four (4)
11 hours worked or major fraction thereof and failing to provide compensation for such unprovided
12 rest periods as required by California wage and hour laws.

13 6. For at least four (4) years prior to the filing of this action and continuing to the
14 present, the Corner Bakery Defendants have failed to pay Plaintiffs and other similarly situated
15 employees or former employees within the State of California working at or from the Rancho
16 Cucamonga Location the full amount of their wages owed to them upon termination and/or
17 resignation as required by Labor Code sections 201 and 202.

18 7. For at least one (1) year prior to the filing of this action and continuing to the
19 present, the Corner Bakery Defendants have had a consistent policy or practice of intentionally
20 failing to furnish similarly situated employees within the State of California working at or from
21 the Rancho Cucamonga Location with itemized wage statements that accurately reflect all hours
22 worked, all applicable rates of pay, including for overtime and minimum wages earned, an
23 accurate calculation of net and gross wages earned, and premium wages due for missed meal
24 and/or rest periods as required by California wage and hour laws.

25 8. Plaintiffs, on behalf of themselves and all other similarly situated employees within
26 the State of California working at or from the Rancho Cucamonga Location, bring this action
27 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,
28 510, 512, 558, 558.1, 1194, 1194.2, and 1197, 1197.1, and 2699 *et al.*, and California Code of

1 Regulations, Title 8, section 11070, seeking, *inter alia*, overtime wages, minimum wages,
2 premium wages for missed meal and rest periods, penalties, reasonable attorneys' fees and costs,
3 and interest thereon.

4 9. Plaintiffs, on behalf of themselves and all other similarly situated employees within
5 the State of California working at or from the Rancho Cucamonga Location, pursuant to California
6 Business and Professions Code sections 17200 through 17208, also seek all monies owed but
7 withheld and retained by the Corner Bakery Defendants to which Plaintiffs and members of the
8 Class are entitled.

9 **PARTIES**

10 **A. Plaintiffs**

11 10. Plaintiff AMBER PARDUE is a resident of California. Ms. Pardue is informed and
12 believes, and based thereon alleges that the Corner Bakery Defendants employed her as a non-
13 exempt employee working from their Rancho Cucamonga Location in California as a "catering
14 supervisor" from approximately February of 2016 through May of 2017.

15 11. Plaintiff JENNIFER VARGAS is a resident of California. Ms. Vargas is informed
16 and believes, and based thereon allege that the Corner Bakery Defendants employed her as a non-
17 exempt employee working at their Rancho Cucamonga Location in California as a "manager"
18 from approximately May of 2015 through approximately October of 2016.

19 **B. Defendants**

20 12. Plaintiffs are informed and believe and based thereon allege that defendant CBC
21 RESTAURANT CORP. is, and at all times relevant hereto was, a corporation organized and
22 existing under and by virtue of the laws of the State of Delaware, with its principal place of
23 business in the City of Dallas, State of Texas.

24 13. Plaintiffs are informed and believe and based thereon allege that defendant
25 JULIANA ZHU ("Ms. Zhu") is, and at all times relevant hereto was, an individual residing in Los
26 Angeles, California and the branch manager of the Rancho Cucamonga Location of Corner
27 Bakery.

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1 14. The true names and capacities, whether individual, corporate, associate, or
2 otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to
3 Plaintiffs, who therefore sue defendants by such fictitious names under Code of Civil Procedure
4 section 474. Plaintiff are informed and believes and based thereon allege that each of the
5 defendants designated herein as DOE is legally responsible in some manner for the unlawful acts
6 referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true
7 names and capacities of the defendants designated hereinafter as DOES when such identities
8 become known. Plaintiffs are informed and believes and based thereon allege that all defendants
9 sued herein as DOES are in some manner responsible for the acts herein alleged and that
10 Plaintiffs' damages were proximately caused by their conduct. Whenever, heretofore or
11 hereinafter, reference is made to "Corner Bakery Defendants," it shall include CBC
12 RESTAURANT CORP. and DOES 1 through 100, inclusive. Whenever, heretofore or
13 hereinafter, reference is made to "Defendants," it shall include CBC RESTAURANT CORP.,
14 JULIANA ZHU, and DOES 1 through 100, inclusive.

15 15. Plaintiffs are informed and believe and based thereon allege that the Corner Bakery
16 Defendants collectively acted in all respects pertinent to this action as joint employers, and that
17 each defendant acted in all respects pertinent to this action, as the agent of the other defendant(s),
18 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
19 each defendant are legally attributable to the other defendants.

20 16. Plaintiff is informed and believes, and based thereon alleges that at all times
21 mentioned in this Second Amended Complaint, Ms. Zhu acted on behalf of the Corner Bakery
22 Defendants and violated, or caused to be violated, the Labor Code sections and provisions of the
23 Industrial Welfare Commission regulating minimum wages or hours and days of work as
24 described in this Second Amended Complaint, including, without limitation, Labor Code sections
25 203, 226, 226.7 and 1194, and is thus liable as the employer for said violations pursuant to Labor
26 Code section 558.1.

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SECOND AMENDED CLASS ACTION COMPLAINT

1 work day and a second thirty (30) minute uninterrupted meal period for days on which the
2 employees worked in excess of ten (10) hours in a work day, and failing to provide compensation
3 for such unprovided meal periods.

4 21. The Corner Bakery Defendants have had a consistent policy of failing to provide
5 Plaintiffs and similarly situated employees or former employees within the State of California
6 working at or from the Rancho Cucamonga Location with rest periods of at least ten (10) minutes
7 per four (4) hours worked or major fraction thereof and failing to provide compensation for such
8 unprovided rest periods as required by California wage and hour laws.

9 22. At the time of Plaintiffs' employment and the employment of other former
10 employees of the Corner Bakery Defendants ended, the Corner Bakery Defendants, among other
11 things, willfully failed to pay similarly situated employees or former employees within the State of
12 California working at or from the Rancho Cucamonga Location with overtime wages, minimum
13 wages, and one hour of wages in lieu of each unprovided or interrupted meal period and
14 unprovided rest period.

15 23. The Corner Bakery Defendants have failed to comply with Labor Code section 226,
16 subdivision (a) by intentionally not providing itemized wage statements to similarly situated
17 employees or former employees within the State of California working at or from the Rancho
18 Cucamonga Location that accurately show, including but not limited to, total hours worked during
19 the pay period and pay due and owing for meal and rest break law violations.

20 24. Plaintiffs and other similarly situated employees or former employees within the
21 State of California working at or from the Rancho Cucamonga Location at all times pertinent
22 hereto were not exempt from the minimum wage, overtime, meal break, rest break, wage
23 statement, and other such provisions of California law, and the implementing rules and regulations
24 of the IWC California Wage Orders.

25 CLASS ACTION ALLEGATIONS

26 25. Plaintiffs bring this action on behalf of themselves and all others similarly situated,
27 as a class action pursuant to Code of Civil Procedure section 382. Plaintiffs seeks to represent six
28 (6) Classes composed of and defined as follows:

1 **Non-Exempt Class**

2 All current and former employees of the Corner Bakery Defendants within the
3 State of California that worked at or from the Rancho Cucamonga Location at any
4 time commencing four (4) years preceding the filing of Plaintiffs' complaint up
 until the time that notice of the class action is provided to the class (collectively
 referred to as "Non-Exempt Class").

5 **Meal Period Class**

6 All current and former employees of the Corner Bakery Defendants within the
7 State of California working at or from the Rancho Cucamonga Location at any time
8 commencing four (4) years preceding the filing of Plaintiffs' complaint up until the
 time that notice of the class action is provided to the class who worked shifts of
 five (5) hours or more (collectively referred to as "Meal Period Class").

9 **Rest Period Class**

10 All current and former employees of the Corner Bakery Defendants within the
11 State of California working at or from the Rancho Cucamonga Location at any time
12 commencing four (4) years preceding the filing of Plaintiffs' complaint up until the
13 time that notice of the class action is provided to the class, who worked shifts of
 three and-a-half (3.5) hours or more (collectively referred to as the "Rest Period
 Class")

14 **Late Pay Class**

15 All former employees of the Corner Bakery Defendants within the State of
16 California working at or from the Rancho Cucamonga Location at any time
17 commencing three (3) years preceding the filing of Plaintiffs' complaint up until
 the time that notice of the class action is provided to the class, who did not receive
 all their due wages upon termination and/or resignation of their employment
 (collectively referred to as "Late Pay Class").

18 **Wage Statement Class**

19 All current and former employees of Defendants within the State of California
20 working at or from the Rancho Cucamonga Location to whom, at any time
21 commencing one (1) year preceding the filing of Plaintiffs' complaint up until the
 time that notice of the class action is provided to the class, were provided with
 wage statements (collectively referred to as "Wage Statement Class").

22 26. Plaintiffs reserve the right under California Rule of Court rule 3.765, subdivision
23 (b) to amend or modify the class description with greater specificity or further division into
24 subclasses or limitation to particular issues.

25 27. This action has been brought and may properly be maintained as a class action
26 under the provisions of Code of Civil Procedure section 382 because there is a well-defined
27 community of interest in the litigation and the proposed Classes are easily ascertainable.

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1 **A. Numerosity**

2 28. The potential members of the Class as defined are so numerous that joinder of all
3 the members of the Class is impracticable. While the precise number of Class Members has not
4 been determined yet, Plaintiffs is informed and believes that there are over 75 Class Members
5 employed by the Corner Bakery Defendants working at or from the Rancho Cucamonga Location.

6 29. Accounting for employee turnover during the relevant periods necessarily increases
7 this number substantially. Plaintiffs alleges that the Corner Bakery Defendants' employment
8 records would provide information as to the number and location of all Class Members. Joinder of
9 all members of the proposed Class is not practicable.

10 **B. Commonality**

11 30. There are questions of law and fact common to Class Members. These common
12 questions include, but are not limited to:

- 13 (1) Did the Corner Bakery Defendants violate Labor Code sections 1194 and
14 1197 by auto-deducting work time in connection with meal periods?
- 15 (2) Did the Corner Bakery Defendants violate Labor Code sections 1194 and
16 1197 by requiring Class Members to work off-the-clock?
- 17 (3) Did the Corner Bakery Defendants violate Labor Code sections 1194 and
18 1197 by failing to adequately track (and therefore adequately pay wages)
19 for time worked by Class Members?
- 20 (4) Did the Corner Bakery Defendants violate Labor Code sections 1194 and
21 1197 by rounding Class Members' time worked to their detriment?
- 22 (5) Did the Corner Bakery Defendants violate Labor Code sections 1194 and
23 1197 by editing or otherwise manipulating Class Members' time entries to
24 their detriment?
- 25 (6) Do the Corner Bakery Defendants owe Plaintiffs and Class Members
26 liquidated damages for unpaid minimum wages?
- 27 (7) Did the Corner Bakery Defendants violate Labor Code section 512 by not
28 providing Class Members with uninterrupted 30-minute meal periods?

- 1 (8) Did the Corner Bakery Defendants violate Labor Code section 226.7 by not
2 providing Class Members with additional wages for missed or uninterrupted
3 meal periods?
- 4 (9) Did the Corner Bakery Defendants violate Labor Code section 512 by not
5 providing Class Members with uninterrupted 10-minute rest periods?
- 6 (10) Did the Corner Bakery Defendants violate Labor Code section 226.7 by not
7 providing Class Members with additional wages for missed rest periods?
- 8 (11) Did the Corner Bakery Defendants violate Labor Code sections 201 and 202
9 by failing to pay Class Members upon termination or resignation all wages
10 earned?
- 11 (12) Are the Corner Bakery Defendants liable to Class Members for penalty
12 wages under Labor Code section 203?
- 13 (13) Did the Corner Bakery Defendants violate Labor Code section 226,
14 subdivision (a) by not furnishing Class Members with accurate wage
15 statements?
- 16 (14) Is Ms. Zhu liable for damages for violation of the Labor Code sections and
17 provisions regulating minimum wages or hours and days of work in the
18 applicable orders of the Industrial Welfare Commission as set forth in this
19 Second Amended Complaint, including, without limitation, Labor Code
20 sections 203, 226, 226.7, and 1194, as a person acting on behalf of an the
21 Corner Bakery Defendants who violates, or causes to be violated, these
22 Labor Code sections?
- 23 (15) Did the Corner Bakery Defendants violate the Unfair Competition Law,
24 Business and Professions Code section 17200, *et seq.*, by their unlawful
25 practices as alleged herein?
- 26 (16) Are Class Members entitled to restitution of penalty wages under Business
27 and Professions Code section 17203?
- 28 (17) Are Class Members entitled to costs and attorneys' fees?

1 (18) Are Class Members entitled to interest?

2 C. **Typicality**

3 31. Plaintiffs' herein alleged claims are typical of those claims which could be alleged
4 by any member of the classes, and the relief sought is typical of the relief which would be sought
5 by each of the members of the Classes in separate actions. Plaintiffs and all members of the
6 Classes sustained injuries and damages arising out of and caused by Defendants' common course
7 of conduct in violation of laws and regulations that have the force and effect of law and statutes as
8 alleged herein.

9 D. **Adequacy of Representation**

10 32. Plaintiffs will fairly and adequately represent and protect the interest of the
11 members of the Classes. Counsel who represents Plaintiffs is competent and experienced in
12 litigating wage and hour class actions.

13 E. **Superiority of Class Action**

14 33. A class action is superior to other available means for the fair and efficient
15 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
16 questions of law and fact common to the Classes predominate over any questions affecting only
17 individual members of each Class. Each member of each Class has been damaged and is entitled
18 to recovery by reason of the Defendants' illegal policy and/or practice of failing to pay overtime
19 and minimum wages, failing to provide meal and rest breaks or compensation in lieu thereof,
20 failing to pay all wages due upon termination and/or resignation, and failing to provide accurate
21 itemized wage statements, or causing said harm to Class Members.

22 34. Class action treatment will allow those similarly situated to litigate their claims in a
23 manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are
24 unaware of any difficulties that are likely to be encountered in the management of this Action that
25 would preclude its maintenance as a Class Action.

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1 **FIRST CAUSE OF ACTION**

2 **(Failure to Pay Overtime Wages – Against All Defendants)**

3 35. Plaintiffs re-allege and incorporate by reference all of the allegations contained in
4 the preceding paragraphs of this Second Amended Complaint as though fully set forth hereon.

5 36. At all times relevant to this Complaint, Labor Code section 510 was in effect and
6 provided: “(a) Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in
7 one workday and any work in excess of forty hours in any one workweek . . . shall be
8 compensated at the rate of no less than one and one-half times the regular rate of pay for an
9 employee.” Furthermore, Labor Code section 510 provides that work performed in excess of
10 twelve hours in one workday shall be compensated at the rate of no less than double the regular
11 rate of pay for an employee.

12 37. By requiring Plaintiffs and the Non-Exempt Class to work greater than eight (8)
13 hours per day, twelve (12) hours per day, or forty (40) hours per week without properly
14 compensating overtime wages as a result of, without limitation failing to accurately track all hours
15 worked, failing to pay for all tracked hours worked, requiring employees to work off-the-clock,
16 auto-deducting pay for worked time, and manipulating, editing, or otherwise rounding tracked
17 time entries to employees’ detriment, the Defendants willfully violated, or caused to be violated,
18 the provisions of the Labor Code, among others, sections 510, 558, 1194, and applicable IWC
19 Wage Orders, and California law.

20 38. As a result of the unlawful acts of Defendants, Plaintiffs and the Non-Exempt Class
21 have been deprived of overtime wages in amounts to be determined at trial, and are entitled to
22 recovery of such amounts, plus interest and penalties thereon, attorneys’ fees and costs, pursuant
23 to Labor Code section 1194 and 1199, Code of Civil Procedure section 1021.5, and Civil Code
24 section 3287.

25 **SECOND CAUSE OF ACTION**

26 **(Failure to Pay Minimum Wages – Against All Defendants)**

27 39. Plaintiffs re-allege and incorporate by reference all of the allegations contained in
28 the preceding paragraphs of this Second Amended Complaint as though fully set forth hereat.

40. At all relevant times, Plaintiffs and the members of the Non-Exempt Class were employees of the Corner Bakery Defendants covered by Labor Code section 1197 and applicable Wage Orders.

41. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiffs and the members of the Non-Exempt Class were entitled to receive minimum wages for all hours worked.

42. As a result of Defendants' unlawful conduct, including but not limited to as a result of their failing to accurately track all hours worked, failing to pay for all tracked hours worked, requiring employees to work off-the-clock, auto-deducting pay for worked time, and manipulating, editing, or otherwise rounding tracked time entries to employees' detriment, Defendants failed to pay, or caused the failure to pay, Plaintiffs' and members of the Non-Exempt Class minimum wages for all hours worked in violation of Labor Code section 1197 and applicable Wage Orders.

43. As a result of Defendants' unlawful conduct, Plaintiffs and members of the Non-Exempt Class have suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages for all hours worked.

44. Pursuant to Labor Code section 1194 and 1194.2, Plaintiffs and members of the Non-Exempt Class are entitled to recover the full amount of unpaid minimum wages, penalties, prejudgment interest, liquidated damages, reasonable attorneys' fees and costs of suit.

THIRD CAUSE OF ACTION

(Failure to Provide Meal Periods – Against All Defendants)

45. Plaintiffs re-allege and incorporate by reference all of the allegations contained in the preceding paragraphs of this Second Amended Complaint as though fully set forth hereon.

46. Pursuant to Labor Code section 512, no employer shall employ an employee for a work period of more than five (5) hours without a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. Plaintiffs and other members of the Meal Period Class were not

1 provided with requisite uninterrupted meal periods as contemplated under the law.

2 47 Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
3 with a meal period as provided in the applicable Wage Order of the Industrial Welfare
4 Commission, the employer shall pay the employee one additional hour of pay at the employee's
5 regular rate of compensation for each work day that the meal period is not provided.

6 48. By their failure to provide Plaintiffs and members of the Meal Period Class with
7 the meal periods contemplated by Labor Code section 512, among other California authorities, and
8 failing to provide compensation for such unprovided meal periods, as alleged above, Defendants
9 willfully violated, or caused to be violated, the provisions of Labor Code section 512 and
10 applicable Wage Orders.

11 49. As a result of Defendants' unlawful conduct, Plaintiffs and the other members of
12 the Meal Period Class have suffered damages in an amount, subject to proof, to the extent they
13 were not paid additional pay owed for missed meal periods.

14 50. Plaintiffs and the other members of the Meal Period Class are entitled to recover
15 the full amount of their unpaid additional pay for missed meal periods. Pursuant to Code of Civil
16 Procedure section 1021.5, Plaintiffs and the other members of the Meal Period Class are entitled to
17 recover the reasonable attorneys' fees and costs of suit.

18 51. Pursuant to Civil Code section 3287, subdivision (a), Plaintiffs and other members
19 of the Meal Period Class are entitled to recover prejudgment interest on the additional pay owed
20 for missed meal periods.

21 **FOURTH CAUSE OF ACTION**

22 **(Failure to Provide Rest Periods – Against All Defendants)**

23 52. Plaintiffs re-allege and incorporate by reference all of the allegations contained in
24 the preceding paragraphs of this Second Amended Complaint as though fully set forth hereon.

25 53. California law and applicable Wage Orders require that employers "authorize and
26 permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour
27 work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-
28 half (3 ½) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who

1 work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20)
2 minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be
3 provided thirty (30) minutes of paid rest period. Plaintiffs and other members of the Rest Period
4 Class were not provided with requisite rest periods as contemplated under the law.

5 54. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee
6 with a rest period as provided in the applicable Wage Order of the Industrial Welfare Commission,
7 the employer shall pay the employee one additional hour of pay at the employee's regular rate of
8 compensation for each work day that the rest period is not provided.

9 55. By their failure to provide Plaintiffs and other members of the Rest Period Class
10 with the rest periods contemplated by applicable Wage Orders, among other California authorities,
11 and failing to provide compensation for such unprovided rest periods, as alleged above,
12 Defendants willfully violated, or caused to be violated, the provisions of Labor Code section 226.7
13 and applicable Wage Orders.

14 56. As a result of Defendants' unlawful conduct, Plaintiffs and the other members of
15 the Rest Period Class have suffered damages in an amount, subject to proof, to the extent they
16 were not paid additional pay owed for missed rest periods.

17 57. Plaintiffs and the other members of the Rest Period Class are entitled to recover the
18 full amount of their unpaid additional pay for missed rest periods. Pursuant to Code of Civil
19 Procedure section 1021.5, Plaintiffs and the other members of the Rest Period Class are entitled to
20 recover reasonable attorneys' fees and costs of suit.

21 58. Pursuant to Civil Code section 3287, subdivision (a), Plaintiffs and other members
22 of the Rest Period Class are entitled to recover prejudgment interest on the additional pay owed for
23 missed rest periods.

24 **FIFTH CAUSE OF ACTION**

25 **(Failure to Pay Wages at Termination – Against All Defendants)**

26 59. Plaintiffs re-allege and incorporate by reference all of the allegations contained in
27 the preceding paragraphs of this Second Amended Complaint as though fully set forth hereon.

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1 60. At all relevant times, Plaintiffs and other members of the Late Pay Class were
2 employees of the Corner Bakery Defendants covered by Labor Code sections 201 and 202.

3 61. Pursuant to Labor Code sections 201 and 202, Plaintiffs and other members of the
4 Late Pay Class were entitled upon termination to timely payment of all wages earned and unpaid
5 prior to termination, including overtime and minimum wages. Specifically, discharged employees
6 were entitled to payment of all wages earned and unpaid, including without limitation, overtime
7 and minimum wages, prior to discharge immediately upon termination. Employees who resigned
8 were entitled to payment of all wages earned and unpaid, including, without limitation, overtime
9 and minimum wages, prior to resignation within 72 hours after giving notice of resignation or, if
10 they gave 72 hours previous notice, they were entitled to payment of all wages earned and unpaid,
11 including overtime wages, at the time of resignation.

12 62. Defendants failed to pay, or caused the failure to pay, Plaintiffs and other members
13 of the Late Pay Class all wages earned and unpaid prior to resignation or termination in
14 accordance with Labor Code sections 201 or 202. Plaintiffs and other members of the Late Pay
15 Class are informed and believe and thereon allege that at all relevant times within the applicable
16 limitations period, Defendants had a practice of not paying upon termination or resignation, the
17 wages owed to them as a consequence of, among other things, regular and overtime hours worked.

18 63. Defendants' failure to pay or causation of the failure to pay Plaintiffs and members
19 of the Late Pay Class all wages earned prior to termination or resignation in accordance with
20 Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned
21 by Plaintiffs and other members of the Late Pay Class at the time of termination or resignation in
22 accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices
23 incompatible with the requirements of Labor Code sections 201 and 202.

24 64. Pursuant to Labor Code sections 201 and 202, Plaintiffs and other members of the
25 Late Pay Class are entitled to all wages earned prior to termination or resignation that Defendants
26 failed to pay them.

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1 72. Defendants failed to provide, or caused the failure to provide, Ms. Pardue and the
2 other members of the Wage Statement Class accurate itemized wage statements in accordance
3 with Labor Code section 226, subdivision (a).

4 73. Ms. Pardue and the other members of the Wage Statement Class are informed and
5 believe and thereon allege that at all relevant times, Defendants maintained and continue to
6 maintain a policy and practice of issuing wage statements that do not accurately set out amounts
7 due because they failed to accurately track all hours worked, failed to pay for all tracked hours
8 worked, required employees to work off-the-clock, auto-deducted pay for worked time, edited,
9 manipulated, or otherwise rounded tracked time entries to employees' detriment, as well as failed
10 to include amounts due and owing for meal and rest break law violations and the rate at which
11 those amounts should have been paid. Defendants' practices resulted and continue to result in the
12 issuance of Wage Statements to Ms. Pardue and other members of the Wage Statement Class that
13 do not comply with the itemization requirements.

14 74. Defendants' failure to provide Ms. Pardue and other members of the Wage
15 Statement Class with accurate Wage Statements was knowing and intentional. Defendants had the
16 ability to provide Ms. Pardue and the other members of the Wage Statement Class with accurate
17 Wage Statements, but intentionally provided wage statements that Defendants knew were not
18 accurate.

19 75. As a result of Defendants' unlawful conduct, Ms. Pardue and the other members of
20 the Wage Statement Class have suffered injury. The absence of accurate information on their
21 Wage Statements has delayed timely challenge to Defendants' unlawful pay practices, requires
22 discovery and mathematical computations to determine the amount of wages owed, causes
23 difficulty and expense in attempting to reconstruct time and pay records, and led to submission of
24 inaccurate information about wages and amounts deducted from wages to state and federal
25 governmental agencies.

26 76. Pursuant to Labor Code section 226, subdivision (e), Ms. Pardue and other
27 members of the Wage Statement Class are entitled to recover \$50 for the initial pay period during
28 the period in which violation of Labor Code section 226 occurred and \$100 for each violation of

1 Labor Code section 226 in a subsequent pay period, not to exceed an aggregate penalty of
2 \$4,000.00 per employee.

3 77. Pursuant to Labor Code sections 226, subdivisions (e), Plaintiffs and the other
4 members of the Wage Statement Class are entitled to recover the full amount of penalties due
5 under Labor Code section 226, subdivision (e), reasonable attorneys' fees and costs of suit.

6 **SEVENTH CAUSE OF ACTION**

7 **(Unfair Competition – Against Corner Bakery and DOES 1-100)**

8 78. Plaintiffs re-allege and incorporate by reference all of the allegations contained in
9 the preceding paragraphs of this First Amended Complaint as though fully set forth hereon.

10 79. The unlawful conduct of the Corner Bakery Defendants alleged herein constitutes
11 unfair competition within the meaning of Business and Professions Code section 17200. Due to
12 their unlawful business practices in violation of the Labor Code, the Corner Bakery Defendants
13 have gained a competitive advantage over other comparable companies doing business in the State
14 of California that comply with their obligations to compensate employees in accordance with the
15 Labor Code.

16 80. As a result of the Corner Bakery Defendants' unfair competition as alleged herein,
17 Plaintiffs and similarly situated Class Members have suffered injury in fact and lost money or
18 property. Plaintiffs and similarly situated Class Members have been deprived from not being
19 compensated overtime and minimum wages, from not being provided with meal and rest breaks or
20 compensation in lieu thereof, from not being paid all wages due upon termination or resignation,
21 and from being provided with inaccurate wage statements.

22 81. Pursuant to Business and Professions Code section 17203, Plaintiffs and similarly
23 situated Class Members are entitled to restitution of all wages and other monies owed to them
24 under the Labor Code, including interest thereon, in which they had a property interest and which
25 the Corner Bakery Defendants nevertheless failed to pay them and instead withheld and retained
26 for themselves. Restitution of the money owed to Plaintiffs and similarly situated Class Members
27 is necessary to prevent the Corner Bakery Defendants from becoming unjustly enriched by their
28 failure to comply with the Labor Code.

82. Plaintiffs and similarly situated Class Members are entitled to recover reasonable attorneys' fees in connection with their unfair competition claims pursuant to Code of Civil Procedure section 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

EIGHTH CAUSE OF ACTION

(Penalties Under Labor Code Section 558 – Against All Defendants)

83. Ms. Pardue re-alleges and incorporates by reference all of the allegations contained in the preceding paragraphs of this Second Amended Complaint as though fully set forth hereon.

84. During the period beginning one (1) year preceding the filing of the Complaint in this action (the "Civil Penalty Period"), Defendants violated, *inter alia*, Labor Code sections 200, 201, 202, 203, 226, 226.7, 510, 512, 1194, and 1194.2 and 1197.

85. Labor Code section 558 provides that “[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 and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;

(3) Wages recovered pursuant to this section shall be paid to the affected employee."

86. Ms. Pardue is informed and believes, and based thereon alleges that Ms. Zhu caused Defendants' violation of *inter alia*, Labor Code sections 200, 201, 202, 203, 226, 226.7, 510, 512, 1194, and 1194.2 and 1197, as set forth above.

87. Ms. Pardue has complied with the procedures for bringing suit specified in Labor Code section 2699.3. On or around January 30, 2018, Ms. Pardue gave written notice to the Labor and Workforce Development Agency (“LWDA”) and to Defendants of the specified provisions of

1 the Labor Code alleged to have been violated by it and anticipates that the LWDA will elect not to
2 investigate.

3 88. As a direct and proximate result of Defendants' conduct, Ms. Pardue and other
4 aggrieved employees during the Civil Penalty Period are entitled to recover directly from
5 Defendants, and, in the case of the Ms. Zhu, in her individual capacity, all wages that Defendants
6 caused not to be paid to Ms. Pardue by Defendants, as well as penalties pursuant to Labor Code
7 section 558.

8 NINTH CAUSE OF ACTION

9 **(Penalties Under Labor Code Section 1197.1 - Against All Defendants)**

10 89. Ms. Pardue re-alleges and incorporates by reference all of the allegations contained
11 in the preceding paragraphs of this Second Amended Complaint as though fully set forth hereon.

12 90. Pursuant to Labor Code section 1197.1, subdivision (a): "Any employer or other
13 person acting either individually or as an officer, agent, or employee of another person, who pays
14 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or
15 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,
16 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to
17 Section 203 as follows:

18 (1) For any initial violation that is intentionally committed, one hundred dollars
19 (\$100) for each underpaid employee for each pay period for which the employee is underpaid.
20 This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated
21 damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to section
22 203.

23 (2) For each subsequent violation for the same specific offense, two hundred
24 fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is
25 underpaid regardless of whether the initial violation is intentionally committed. This amount shall
26 be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to
27 Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

28

1 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant
2 to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

3 91. During the Civil Penalty Period, Defendants violated, *inter alia*, Labor Code
4 sections 1194, and 1194.2 and 1197.

5 92. Ms. Pardue is informed and believes, and based thereon alleges that Ms. Zhu
6 caused Defendants’ violation of *inter alia*, Labor Code sections 1194, and 1194.2 and 1197.

7 93. Ms. Pardue has complied with the procedures for bringing suit specified in Labor
8 Code section 2699.3. On or around January 30, 2018, Ms. Pardue gave written notice to the Labor
9 and Workforce Development Agency (“LWDA”) and to Defendants of the specified provisions of
10 the Labor Code alleged to have been violated by it and anticipates that the LWDA will elect not to
11 investigate.

12 94. As a direct and proximate result of Defendants’ conduct, Ms. Pardue and other
13 aggrieved employees during the Civil Penalty Period are entitled to recover directly from
14 Defendants, and, in the case of the Ms. Zhu, in her individual capacity, all wages that Defendants
15 caused not to be paid to Ms. Pardue by Defendants, liquidated damages, applicable penalties
16 imposed by Labor Code section 203, as well as penalties pursuant to Labor Code section 1197.1

17 **TENTH CAUSE OF ACTION**

18 **(Penalties Under Labor Code Section 2699 – Against All Defendants)**

19 95. Ms. Pardue re-alleges and incorporates by reference all of the allegations contained
20 in the preceding paragraphs of this Second Amended Complaint as though fully set forth hereon.

21 96. Labor Code section 2699, subdivisions (a) and (g) authorize an aggrieved
22 employee, on behalf of himself and other current and former employees, to bring a civil action to
23 recover civil penalties pursuant to the procedures specified in Labor Code section 2699.3.

24 97. Ms. Pardue has complied with the procedures for bringing suit specified in Labor
25 Code section 2699.3. On or around January 30 2018, Ms. Pardue gave written notice to the Labor
26 and Workforce Development Agency (“LWDA”) and to Defendants of the specified provisions of
27 the Labor Code alleged to have been violated by it and anticipates that the LWDA will elect not to
28 investigate.

1 98. Ms. Pardue is informed and believes, and based thereon alleges that Ms. Zhu
2 caused Defendants' violation of *inter alia*, Labor Code sections 200, 201, 202, 203, 226, 226.7,
3 510, 512, 1194, and 1194.2 and 1197, as set forth above.

4 99. Pursuant to Labor Code section 2699, subdivisions (a) and (f), Ms. Pardue and the
5 aggrieved employees she seeks to represent are entitled to recover civil penalties for Defendants'
6 violations of the specified Labor Code sections during the Civil Penalty Period in the amount of
7 one hundred dollars (\$100) for each employee per pay period for the initial violation and two
8 hundred dollars (\$200) for each employee per pay period for each subsequent violation.

9 100. Pursuant to Labor Code section 2699, subdivision (g), Ms. Pardue and the
10 aggrieved employees she seeks to represent are entitled to an award of reasonable attorneys' fees
11 and costs in connection with her claims for civil penalties.

12 **REQUEST FOR JURY TRIAL**

13 101. Plaintiffs hereby request a trial by jury.

14 **PRAYER**

15 **WHEREFORE**, on behalf of themselves and all others similarly situated, Plaintiffs pray
16 for judgment against Defendants as follows:

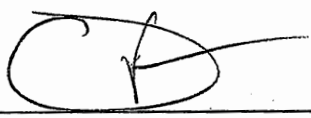
- 17 A. An order certifying that Plaintiffs may pursue their claims against Defendants as a
18 class action on behalf of the Class Members;
- 19 B. An order appointing Plaintiffs as Class representatives and appointing Plaintiffs'
20 counsel as class counsel;
- 21 C. Damages for all wages earned and owed, including unpaid overtime and minimum
22 wages, under, among other authorities, Labor Code sections 510, 558 1194 and
23 1197.1;
- 24 D. For liquidated damages under Labor Code section 1194.2;
- 25 E. Damages in the form of premium wages for missed meal and rest periods under,
26 among other authorities, Labor Code sections 512 and 226.7;
- 27 F. Penalties for inaccurate wage statements under Labor Code section 226,
28 subdivision (e);

- 1 G. Damages for unpaid penalty wages under Labor Code section 203;
- 2 H. Waiting time penalties pursuant to Labor Code section 203;
- 3 I. Civil penalties pursuant to Labor Code sections 558, 1197.1 and 2699;
- 4 J. Restitution under Business and Professions Code section 17203;
- 5 K. Pre-judgment interest;
- 6 L. Costs;
- 7 M. Reasonable attorneys' fees; and
- 8 N. Such other and further relief as the Court deems just and proper.
- 9

10 Dated: July 31, 2018

BIBIYAN LAW GROUP, P.C.

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BY: 

DAVID D. BIBIYAN
Attorneys for Plaintiffs AMBER PARDUE and
JENNIFER VARGAS, on behalf of themselves and all
others similarly situated