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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAY 27 2021

BY 
LILIANA MARISCAL, DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

SALLY PORTER, individually, and on
behalf of other members of the general
public similarly situated,

Plaintiff,

vs.

INDIAN HILL MANAGEMENT, INC., a
California corporation; WEBB FAMILY
ENTERPRISES, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CIV SB 2026788

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 226(b)-(c), 432, and 1198.5 (Failure to Produce Employment Records);
- (7) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (8) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);

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- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Sally Porter, individually and on behalf of all other members of the public
2 similarly situated and as an aggrieved employee and on behalf of all other aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt, hourly
9 paid employees and received at least one wage statement and against whom one or more
10 violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision
11 regulating hours and days of work in the applicable Industrial Welfare Commission (“IWC”)
12 Wage Order were committed, as set forth in this complaint. The monetary damages, penalties,
13 and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court
14 and will be established according to proof at trial. This Court has jurisdiction over this action
15 pursuant to the California Constitution, Article VI, section 10. The statutes under which this
16 action is brought do not specify any other basis for jurisdiction. Plaintiff’s share of damages,
17 penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of jurisdiction
21 over them by the California courts consistent with traditional notions of fair play and substantial
22 justice. There is no basis for federal diversity jurisdiction in this action because there is no
23 complete diversity, and this case falls within the statutory exceptions to “minimal diversity”
24 jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4). Upon information
25 and belief, two-thirds or more of the class members and Defendants are citizens of California
26 and/or (a) two-thirds of the class members and Defendants are citizens of California; (b) the
27 alleged wage and hour violations occurred in California; (c) significant relief is being sought
28 against Defendants whose violations of California wage and hour laws form a significant basis

1 for Plaintiff's claims; and (d) no other class action has been filed within the past three (3) years
2 on behalf of the same proposed class against Defendants asserting the same or similar factual
3 allegations.

4 3. Venue is proper in this Court, because Defendants filed Statement of Information
5 forms with the California Secretary of State designating a principal place of business in Ontario,
6 County of San Bernardino, in accordance with California Corporations Code section 2105(a)(3).
7 Cal. Code Civ. P. § 395.5. Venue is also proper in this Court because Defendants employ
8 persons in this county, and employed Plaintiff in this county, and thus a substantial portion of
9 the transactions and occurrences related to this action occurred in this county.

10 **THE PARTIES**

11 4. Plaintiff is a resident of Rancho Cucamonga, in San Bernardino County,
12 California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from
13 approximately February 2018 to July 2020. Plaintiff worked for Defendants as an Assistant
14 Manager at their McDonald's restaurant in Rancho Cucamonga, California. During her
15 employment, Plaintiff typically worked seven (7) to eight (8) hours or more per day, five (5)
16 days per week. Plaintiff's primary job duties included, without limitation, monitoring food
17 safety; taking customers' orders; cooking and serving food and drink to customers; performing
18 general maintenance; and cleaning the kitchen, restroom, and dining areas.

19 5. INDIAN HILL MANAGEMENT, INC. was and is, upon information and belief,
20 a California corporation, and at all times hereinafter mentioned, an employer whose employees
21 are engaged throughout this county, the State of California, or the various states of the United
22 States of America.

23 6. WEBB FAMILY ENTERPRISES, INC. was and is, upon information and belief,
24 a California corporation, and at all times hereinafter mentioned, an employer whose employees
25 are engaged throughout this county, the State of California, or the various states of the United
26 States of America.

27 7. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
28 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the

1 complaint and serve such fictitiously named Defendants once their names and capacities
2 become known.

3 8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
4 were the partners, agents, owners, or managers of INDIAN HILL MANAGEMENT, INC. and
5 WEBB FAMILY ENTERPRISES, INC. at all relevant times.

6 9. Plaintiff is informed and believes, and thereon alleges, that each and all of the
7 acts and omissions alleged herein was performed by, or is attributable to, INDIAN HILL
8 MANAGEMENT, INC.; WEBB FAMILY ENTERPRISES, INC.; and/or DOES 1 through 10
9 (collectively, “Defendants” or “IHM”), each acting as the agent, employee, alter ego, and/or
10 joint venturer of, or working in concert with, each of the other co-Defendants and was acting
11 within the course and scope of such agency, employment, joint venture, or concerted activity
12 with legal authority to act on the others’ behalf. The acts of any and all Defendants were in
13 accordance with, and represent, the official policy of Defendants.

14 10. At all relevant times, Defendants, and each of them, ratified each and every act
15 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
16 and abetted the acts and omissions of each and all the other Defendants in proximately causing
17 the damages herein alleged.

18 11. Plaintiff is informed and believes, and thereon alleges, that each of said
19 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
20 omissions, occurrences, and transactions alleged herein.

21 12. Under California law, Defendants are jointly and severally liable as employers
22 for the violations alleged herein because they have each exercised sufficient control over the
23 wages, hours, working conditions, and employment status of Plaintiff and class members. Each
24 Defendant had the power to hire and fire Plaintiff and class members, supervised and controlled
25 their work schedule and/or conditions of employment, determined their rate of pay, and
26 maintained their employment records. Defendants suffered or permitted Plaintiff and class
27 members to work and/or “engaged” Plaintiff and class members so as to create a common-law
28 employment relationship. As joint employers of Plaintiff and class members, Defendants are

1 jointly and severally liable for the civil penalties and all other relief available to Plaintiff and
2 class members under the law.

3 13. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
4 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
5 members because Defendants have:

- 6 (a) jointly exercised meaningful control over the work performed by Plaintiff
7 and class members;
- 8 (b) jointly exercised meaningful control over Plaintiff's and class members'
9 wages, hours, and working conditions, including the quantity, quality
10 standards, speed, scheduling, and operative details of the tasks performed
11 by Plaintiff and class members;
- 12 (c) jointly required that Plaintiff and class members perform work which is
13 an integral part of Defendants' businesses; and
- 14 (d) jointly exercised control over Plaintiff and class members as a matter of
15 economic reality in that Plaintiff and class members were dependent on
16 Defendants, who shared the power to set the wages of Plaintiff and class
17 members and determined their working conditions, and who jointly
18 reaped the benefits from the underpayment of their wages and
19 noncompliance with other statutory provisions governing their
20 employment.

21 14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
22 there has existed a unity of interest and ownership between Defendants such that any
23 individuality and separateness between the entities has ceased.

24 15. INDIAN HILL MANAGEMENT, INC.; WEBB FAMILY ENTERPRISES,
25 INC.; and DOES 1 through 10 are therefore alter egos of each other.

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

17. Plaintiff further alleges, upon information and belief, that Defendants INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, 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/>), INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, INC. share the same entity address and mailing address, “3155 SEDONA CT., STE. A, ONTARIO, CA 91764”;

(b) According to Defendants' most recent "Statement of Information" forms filed with the California Secretary of State, INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, INC. share the same officers and/or directors, including, but not limited to: Kiana Webb [Severloh], who serves as Chief Executive Officer, Secretary, and Director of INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, INC.; and Kyle Webb, who serves as Chief Financial Officer of INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, INC.;

(c) According to Defendants’ most recent “Statement of Information” forms filed with the California Secretary of State, INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, INC. share the same agent for service of process, “ARS IP LAW FIRM, P.C. (C4188473)”; and

(d) On information and belief, INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, INC. utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

18. Defendants own and operate 16 McDonald's franchise restaurants in Southern California. Upon information and belief, Defendants maintain a single, centralized Human

Resources (“HR”) department at their company headquarters in Ontario, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

19. In particular, Plaintiff and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions.

20. Upon information and belief, Defendants maintain a centralized Payroll department at their company headquarters in Ontario, California, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiff and class members. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State of California, regardless of the manner in which each employee’s employment ends.

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

22. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors knowledgeable about California labor and wage law, employment and personnel practices, and about the requirements of California law.

23. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class members were not paid for all hours worked because all hours worked were not recorded.

24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime

1 compensation.

2 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and class members were entitled to receive at least minimum
4 wages for compensation and that they were not receiving at least minimum wages for work that
5 was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff and
6 class members were not paid at least minimum wages for work done off-the-clock.

7 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to meal periods in accordance
9 with the California Labor Code or payment of one (1) additional hour of pay at their regular
10 rates of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal
11 periods and that Plaintiff and class members were not provided with all meal periods or payment
12 of one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
13 uninterrupted, thirty (30) minute meal period.

14 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to rest periods in accordance
16 with the California Labor Code and applicable IWC Wage Order or payment of one (1)
17 additional hour of pay at their regular rates of pay when they were not authorized and permitted
18 to take a compliant rest period. In violation of the California Labor Code, Plaintiff and class
19 members were not authorized and permitted to take compliant rest periods, nor did Defendants
20 provide Plaintiff and class members with payment of one (1) additional hour of pay at their
21 regular rates of pay when they were not authorized and permitted to take a compliant rest period.

22 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to receive complete and
24 accurate wage statements in accordance with California law. In violation of the California
25 Labor Code, Plaintiff and class members were not provided complete and accurate wage
26 statements.

27 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that they had a duty to maintain accurate and complete payroll records in

1 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
2 knowingly, and intentionally failed to do so.

3 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that they were required to comply with requests from Plaintiff and class
5 members to inspect or receive a copy of their wage records within 21 days in accordance with
6 the California Labor Code and applicable IWC Wage Order, but willfully, knowingly, and
7 intentionally failed to do so.

8 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and class members were entitled to receive copies of
10 instruments that they signed upon request. In violation of the California Labor Code,
11 Defendants denied Plaintiff and class members their right to obtain copies of instruments that
12 they signed.

13 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and class members were entitled to receive copies of their
15 personnel records no later than 30 days from the date Defendants receive a written request. In
16 violation of the California Labor Code, Defendants denied Plaintiff and class members their
17 right to obtain copies of their personnel records within the statutory time limits.

18 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and class members were entitled to timely payment of all
20 wages earned upon termination of employment. In violation of the California Labor Code,
21 Plaintiff and class members did not receive payment of all wages due, including, but not limited
22 to, overtime wages, minimum wages, and/or meal and rest period premiums, within permissible
23 time periods.

24 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and class members were entitled to timely payment of wages
26 during their employment. In violation of the California Labor Code, Plaintiff and class members
27 did not receive payment of all wages, including, but not limited to, overtime wages, minimum
28 wages, and/or meal and rest period premiums, within permissible time periods.

1 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and class members were entitled to receive itemized wage
3 statements or separate written statements showing the amount of paid sick leave available, or
4 paid time off provided in lieu of sick leave. In violation of the California Labor Code,
5 Defendants failed to provide Plaintiff and class members with written itemized wage statements
6 or separate written statements showing this information.

7 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to receive full reimbursement
9 for all business-related expenses and costs they incurred during the course and scope of their
10 employment and that they did not receive full reimbursement of applicable business-related
11 expenses and costs incurred.

12 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
13 mentioned, Defendants knew or should have known that Defendants had a duty to provide
14 Plaintiff and class members with written notice of the material terms of their employment with
15 Defendants as required by the California Wage Theft Prevention Act, but willfully, knowingly,
16 and intentionally failed to do so.

17 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
18 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
19 and class members for all hours worked, and that Defendants had the financial ability to pay
20 such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
21 represented to Plaintiff and class members that they were properly denied wages, all in order to
22 increase Defendants' profits.

23 **PAGA REPRESENTATIVE ALLEGATIONS**

24 39. At all times herein set forth, PAGA provides that any provision of law under the
25 California Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
26 assessed and collected by the LWDA for violations of the California Labor Code and applicable
27 IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action
28 brought on behalf of themselves and other current or former employees pursuant to procedures

1 outlined in California Labor Code section 2699.3.

2 40. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any
3 person who was employed by the alleged violator and against whom one or more of the alleged
4 violations was committed.”

5 41. Plaintiff and other current and former employees of Defendants are “aggrieved
6 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
7 or former employees and one or more of the alleged violations were committed against them.

8 42. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
9 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
10 requirements have been met:

- 11 (a) The aggrieved employee or representative shall give written notice by
12 online filing with the LWDA and by certified mail to the employer of the
13 specific provisions of the California Labor Code alleged to have been
14 violated, including the facts and theories to support the alleged violation.
- 15 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
16 2699.3(a) and any employer response to that notice shall be accompanied
17 by a filing fee of seventy-five dollars (\$75).
- 18 (c) The LWDA shall notify the employer and the aggrieved employee or
19 representative by certified mail that it does not intend to investigate the
20 alleged violation (“LWDA’s Notice”) within sixty (60) calendar days of
21 the postmark date of the aggrieved employee’s notice. Upon receipt of
22 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
23 (65) calendar days of the postmark date of the aggrieved employee’s
24 notice, the aggrieved employee may commence a civil action pursuant to
25 California Labor Code section 2699 to recover civil penalties.

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

- 1 (a) The aggrieved employee or representative shall give written notice by
2 online filing with the LWDA and by certified mail to the employer of the
3 specific provisions of the California Labor Code alleged to have been
4 violated (other than those listed in Section 2699.5), including the facts
5 and theories to support the alleged violation.
- 6 (b) An aggrieved employee's notice filed with the LWDA pursuant to
7 2699.3(c) and any employer response to that notice shall be accompanied
8 by a filing fee of seventy-five dollars (\$75).
- 9 (c) The employer may cure the alleged violation within thirty-three (33)
10 calendar days of the postmark date of the notice sent by the aggrieved
11 employee or representative. The employer shall give written notice
12 within that period of time by certified mail to the aggrieved employee or
13 representative and by online filing with the LWDA if the alleged violation
14 is cured, including a description of actions taken, and no civil action
15 pursuant to Section 2699 may commence. If the alleged violation is not
16 cured within the 33-day period, the aggrieved employee may commence
17 a civil action pursuant to Section 2699.

18 44. On December 7, 2020, Plaintiff provided written notice by online filing to the
19 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
20 Code alleged to have been violated, including facts and theories to support the alleged
21 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice
22 was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA
23 PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned Plaintiff
24 PAGA Case Number LWDA-CM-814587-20. A true and correct copy of Plaintiff's written
25 notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

26 45. As of the filing date of this complaint, over 65 days have passed since Plaintiff
27 sent the notice described above to the LWDA, and the LWDA has not responded that it intends
28 to investigate Plaintiff's claims and Defendants have not cured the violations.

1 46. Thus, Plaintiff has satisfied the administrative prerequisites under California
2 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
3 violations of California Labor Code sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432,
4 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5.

5 47. Labor Code section 558(a) provides “[a]ny employer or other person acting on
6 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
7 provision regulating hours and days of work in any order of the Industrial Welfare Commission
8 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
9 each underpaid employee for each pay period for which the employee was underpaid. . . . (2)
10 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
11 each pay period for which the employee was underpaid. . . .” Labor Code section 558(c)
12 provides “[t]he civil penalties provided for in this section are in addition to any other civil or
13 criminal penalty provided by law.”

14 48. Defendants, at all times relevant to this complaint, were employers or persons
15 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
16 rights by violating various sections of the California Labor Code as set forth above.

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

20 50. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
21 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
22 private attorney general, seeks assessment and collection of civil penalties for herself, all other
23 aggrieved employees, and the State of California against Defendants for violations of California
24 Labor Code sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432, 510, 512(a), 516, 1174(d),
25 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5.

26 **CLASS ACTION ALLEGATIONS**

27 51. Plaintiff brings this action on her own behalf, as well as on behalf of each and all
28 other persons similarly situated, and thus seeks class certification under California Code of Civil

1 Procedure section 382.

2 52. All claims alleged herein arise under California law for which Plaintiff seeks
3 relief authorized by California law.

4 53. Plaintiff's proposed class consists of and is defined as follows:

5 All persons who worked for Defendants as non-exempt, hourly
6 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial ("Class").

7 54. Plaintiff's proposed subclass consists of and is defined as follows:

8 All persons who worked for Defendants as non-exempt, hourly
9 paid employees in California and who received at least one wage
10 statement within one (1) year prior to the filing of the initial
complaint until the date of trial ("Subclass").

11 55. Members of the Class and Subclass are referred to herein as "class members."

12 56. Plaintiff reserves the right to redefine the Class and Subclass and to add
13 additional subclasses as appropriate based on further investigation, discovery, and specific
14 theories of liability.

15 57. There are common questions of law and fact as to class members that
16 predominate over questions affecting only individual members, including, but not limited to:

- 17 (a) Whether Defendants required Plaintiff and class members to work over
18 eight (8) hours per day, over twelve (12) hours per day, or over forty (40)
19 hours per week and failed to pay all legally required overtime
20 compensation to Plaintiff and class members;
- 21 (b) Whether Defendants failed to pay Plaintiff and class members at least
22 minimum wages for all hours worked;
- 23 (c) Whether Defendants failed to provide Plaintiff and class members with
24 meal periods;
- 25 (d) Whether Defendants failed to authorize and permit Plaintiff and class
26 members to take rest periods;
- 27 (e) Whether Defendants provided Plaintiff and class members with complete
28 and accurate wage statements as required by California Labor Code

1 section 226(a);

2 (f) Whether Defendants maintained accurate payroll records as required by
3 California Labor Code section 1174(d);

4 (g) Whether Defendants failed to produce copies or allow inspection of
5 employees' own personnel and other employment records upon written
6 request within the statutory time limits;

7 (h) Whether Defendants failed to pay earned overtime wages, minimum
8 wages, and/or meal and rest period premiums due to Plaintiff and class
9 members upon their discharge;

10 (i) Whether Defendants failed timely to pay overtime wages, minimum
11 wages, and/or meal and rest period premiums to Plaintiff and class
12 members during their employment;

13 (j) Whether Defendants failed to provide Plaintiff and class members with
14 written notice on wage statements listing requisite sick pay information
15 set forth in Labor Code section 246(i);

16 (k) Whether Defendants failed to reimburse Plaintiff and/or class members
17 for necessary and required business-related expenditures and/or losses
18 incurred by them in the scope of their employment;

19 (l) Whether Defendants failed to provide written notice of information
20 material to Plaintiff's and class members' employment with Defendants;

21 (m) Whether Defendants engaged in unlawful and unfair business practices in
22 violation of California Business & Professions Code sections 17200, *et*
23 *seq.*; and

24 (n) The appropriate amount of damages, restitution, or monetary penalties
25 resulting from Defendants' violations of California law.

26 58. There is a well-defined community of interest in the litigation and the class
27 members are readily ascertainable:

28 ///

- 1 (a) Numerosity: The class members are so numerous that joinder of all
2 members would be unfeasible and impractical. The membership of the
3 entire class is unknown to Plaintiff at this time; however, the class is
4 estimated to be greater than one hundred (100) individuals and the
5 identity of such membership is readily ascertainable by inspection of
6 Defendants' employment records.
- 7 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect
8 the interests of each class member with whom she has a well-defined
9 community of interest, and Plaintiff's claims (or defenses, if any) are
10 typical of all class members as demonstrated herein.
- 11 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect
12 the interests of each class member with whom she has a well-defined
13 community of interest and typicality of claims, as demonstrated herein.
14 Plaintiff acknowledges that she has an obligation to make known to the
15 Court any relationship, conflicts or differences with any class member.
16 Plaintiff's attorneys, the proposed class counsel, are versed in the rules
17 governing class action discovery, certification, and settlement. Plaintiff
18 has incurred, and throughout the duration of this action, will continue to
19 incur costs and attorneys' fees that have been, are, and will be necessarily
20 expended for the prosecution of this action for the substantial benefit of
21 each class member.
- 22 (d) Superiority: The nature of this action makes the use of class action
23 adjudication superior to other methods. A class action will achieve
24 economies of time, effort, and expense as compared with separate
25 lawsuits, and will avoid inconsistent outcomes because the same issues
26 can be adjudicated in the same manner and at the same time for the entire
27 class.

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1 (e) Public Policy Considerations: Employers in the State of California
2 violate employment and labor laws every day. Current employees are
3 often afraid to assert their rights out of fear of direct or indirect retaliation.
4 Former employees are fearful of bringing actions because they believe
5 their former employers might damage their future endeavors through
6 negative references and/or other means. Class actions provide the class
7 members who are not named in the complaint with a type of anonymity
8 that allows for the vindication of their rights while simultaneously
9 protecting their privacy.

10 **FIRST CAUSE OF ACTION**

11 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**
12 **(Against all Defendants)**

13 59. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

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

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

24 62. Specifically, the applicable IWC Wage Order provides that Defendants are and
25 were required to pay Plaintiff and class members working more than eight (8) hours in a day or
26 more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) 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 63. The applicable IWC Wage Order further provides that Defendants are and were
2 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
3 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
4 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
5 employee, including nondiscretionary bonuses and incentive pay.

6 64. California Labor Code section 510 codifies the right to overtime compensation
7 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
8 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
9 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
10 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
11 the seventh (7th) day of work.

12 65. During the relevant time period, Defendants willfully failed to pay all overtime
13 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and class
14 members were not paid overtime premiums for all of the hours they worked in excess of eight
15 (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours
16 in a week, because all hours worked were not recorded.

17 66. During the relevant time period, Defendants had, and continue to have, a
18 company-wide policy and/or practice of strictly staffing their restaurant locations based on the
19 labor hours allocated by each restaurant's labor or payroll budget, which has resulted in, and
20 continues to result in, chronic understaffing and a lack of adequate meal period coverage,
21 because there were not enough employees on duty to handle the workload and attend to
22 customers. Moreover, Defendants had a practice of failing to schedule meal periods, which
23 further caused Plaintiff and class members to not be relieved of their duties for compliant meal
24 periods. As a result of this inadequate meal period coverage, Plaintiff and class members were
25 not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled
26 to receive a meal period. For example, Plaintiff had her meal periods cut short or interrupted to
27 assist other employees in taking and preparing orders to meet customer demands.

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1 67. In conjunction with understaffing their restaurants, on information and belief,
2 Defendants had a requirement that a managerial employee, such as an Assistant Manager, be
3 present on the restaurant floor at all times and prohibited managers from leaving the premises
4 unless another manager was also on duty, resulting in a lack of meal period coverage for
5 managerial employees. At the same time, the labor budgets Defendants implemented did not
6 always allow for more than one manager to be on the schedule at all times. As a result, Plaintiff
7 and other managerial employees were sometimes the only managers on duty, and were the only
8 employees authorized to grant or access certain permissions in Defendants' point-of-sale
9 system. Because managerial employees were effectively prohibited from leaving Defendants'
10 premises for meal periods without coverage, and because there were too few employees and
11 other managers on duty to handle the workload and attend to customers, Plaintiff and class
12 members were denied uninterrupted 30-minute meal periods, and were required to work through
13 and/or to return early from meal periods.

14 68. Moreover, Defendants' company-wide timekeeping system prevented Plaintiff
15 and class members from recording all hours worked when their meal periods were shortened or
16 interrupted, because the system locked out Plaintiff and class members once they clocked out
17 for a meal period, and would not permit them to clock back in from a meal before the 30 minutes
18 elapsed. Thus, Defendants' timekeeping system further prevented Plaintiff and class members
19 from recording all hours worked when their meal periods were shortened or interrupted.
20 Further, because Defendants frowned upon employees accruing meal period penalties, upon
21 information and belief, Defendants' management adjusted employee time records and/or
22 pressured employees to clock out for meal periods to reflect compliant meal periods, regardless
23 of whether they had received a compliant meal period or not, in order to strictly limit meal
24 penalties that would need to be paid by Defendants. Consequently, Plaintiff and class members
25 performed work during meal periods for which they were not paid.

26 69. Defendants knew or should have known that as a result of these company-wide
27 practices and/or policies, Plaintiff and class members were performing their assigned duties
28 during meal periods, and were suffered or permitted to perform work for which they were not

1 paid. Because Plaintiff and class members occasionally worked shifts of eight (8) hours a day
2 or more or forty (40) hours a week or more, some of this off-the-clock work qualified for
3 overtime premium pay. Therefore, Plaintiff and class members were not paid overtime wages
4 for all of the overtime hours they actually worked.

5 70. Defendants' failure to pay Plaintiff and class members the balance of overtime
6 compensation as required by California law, violates the provisions of California Labor Code
7 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
8 members are entitled to recover their unpaid overtime compensation, as well as interest, costs,
9 and attorneys' fees.

10 **SECOND CAUSE OF ACTION**

11 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 12 **Minimum Wages** 13 **(Against all Defendants)**

14 71. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
15 and every allegation set forth above.

16 72. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
17 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
18 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
19 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the
20 time during which an employee is subject to the control of an employer, and includes all the
21 time the employee is suffered or permitted to work, whether or not required to do so." Cal.
22 Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

23 73. As set forth above, due to Defendants' company-wide practice of utilizing labor
24 budgets, assignment of heavy workloads, subsequent lack of meal period coverage, and policy
25 requiring managerial employees to stay on or near the restaurant premises during meal periods,
26 Plaintiff and class members were impeded from taking all uninterrupted meal periods to which
27 they were entitled and were required to work off-the-clock. Moreover, as stated, Defendants
28 systematically failed to pay Plaintiff and class members for actual hours worked during unpaid

1 meal periods, because Defendants' timekeeping system locked out Plaintiff and class members
2 for 30 minutes when they clocked out for a meal period. Furthermore, as set forth above, in
3 order to prevent employees from accruing meal period penalties, upon information and belief,
4 Defendants' management adjusted employee time records to reflect compliant meal periods
5 and/or pressured employees to clock out for meal periods, but required them to continue
6 working, time for which they were not paid.

7 74. Defendants did not pay minimum wages for all hours worked by Plaintiff and
8 class members. To the extent that these off-the-clock hours did not qualify for overtime
9 premium payment, Defendants did not pay at least minimum wages for those hours worked off-
10 the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

11 75. Defendants' failure to pay Plaintiff and class members minimum wages violates
12 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California
13 Labor Code section 1194.2, Plaintiff and class members are entitled to recover liquidated
14 damages in an amount equal to the wages unlawfully unpaid and interest thereon.

15 **THIRD CAUSE OF ACTION**

16 **Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period**

17 **Violations**

18 **(Against all Defendants)**

19 76. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

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

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1 78. At all relevant times herein set forth, California Labor Code sections 226.7,
2 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
3 meal period mandated by an applicable order of the IWC.

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

10 80. During the relevant time period, as stated, Defendants had, and continue to have,
11 a company-wide policy and/or practice of understaffing their locations due to labor budgeting,
12 which, combined with heavy workloads, has resulted in a lack of meal period coverage and
13 prevented Plaintiff and class members from taking all timely, uninterrupted meal periods to
14 which they were entitled. In conjunction with understaffing their restaurants, as stated above,
15 on information and belief, Defendants had a requirement that a managerial employee be present
16 on the restaurant floor at all times, but Defendants' labor budgets did not always allow for more
17 than one manager to be on the schedule at all times. As a result, Plaintiff and other managerial
18 employees were sometimes the only managers on duty, and were required to wait extended
19 periods of time before taking meal periods, would have their meal periods interrupted, or would
20 work through them in order to assist their coworkers and customers. For example, on several
21 occasions, Plaintiff was not able to take her meal period until the end of her shift due to her
22 heavy workload.

23 81. In addition, as stated, Defendants implemented an electronic timekeeping system
24 that locked Plaintiff and class members out and prevented them from clocking in early before
25 the end of their 30-minute meal period. As a result of Defendants' timekeeping system, Plaintiff
26 and class members were prevented from accurately recording when they had to return early
27 from a meal period so that they could be compensated for that time worked. Furthermore, on
28 information and belief, because Defendants frowned upon employees accruing meal period

1 penalties, Defendants' management would adjust Plaintiff's and class members' time records
2 and/or pressured employees to clock out for meal periods to reflect compliant meal periods,
3 regardless of whether they had received a compliant meal period or not, in order to strictly limit
4 meal penalties that would need to be paid by Defendants.

5 82. As a result, Plaintiff and class members would be forced to work in excess of
6 five (5) hours before taking a meal period, have their meal periods interrupted, and/or had to
7 forgo their meal periods altogether. For example, Plaintiff would have her meal periods
8 interrupted or cut short, due to a lack of coverage resulting from being the only managerial
9 employee scheduled to work or because she needed to assist coworkers and attend to customers.
10 Plaintiff and class members did not sign valid meal period waivers on days that they were
11 entitled to meal periods and were not relieved of all duties.

12 83. At all times herein mentioned, Defendants knew or should have known that, as a
13 result of these policies, Plaintiff and class members were prevented from being relieved of all
14 duties and required to perform some of their assigned duties during meal periods. Defendants
15 further knew or should have known that they did not pay Plaintiff and class members meal
16 period premiums when meal periods were late, interrupted, shortened, or missed, because
17 Defendants adjusted employee time records to reflect compliant meal periods, even if none were
18 taken.

19 84. Moreover, Defendants engaged in a company-wide practice and/or policy of not
20 paying all meal period premiums owed when compliant meal periods are not provided. Because
21 of Defendants' practices and/or policies, Plaintiff and class members have not received premium
22 pay for all missed, late, and interrupted meal periods.

23 85. Defendants' conduct violates the applicable IWC Wage Order, and California
24 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
25 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
26 rate of compensation for each work day that the meal period was not provided.

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FOURTH CAUSE OF ACTION
Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations
(Against all Defendants)

86. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

87. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff and class members’ employment by Defendants.

88. At all relevant times, 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 (3 ½) hours.

89. At all relevant times, 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. 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 v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiff and class members 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.

90. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff and class members 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

1 labor budget policies and resultant understaffing, heavy workload, and lack of coverage
2 prevented Plaintiff and class members from being relieved of all duty in order to take compliant
3 rest periods. Defendants also failed to schedule rest periods, which, coupled with Defendants'
4 failure to provide adequate rest period coverage, further led to Plaintiff and class members not
5 being authorized and permitted to take rest periods.

6 91. Furthermore, Defendants maintained a company-wide on-premises rest period
7 policy, which mandated that Plaintiff and class members remain on Defendants' premises
8 during their rest periods. Because Plaintiff and class members were restricted from leaving the
9 premises during rest periods, they were denied the ability to use their rest periods freely for their
10 own purposes. Thus, Defendants effectively maintained control over Plaintiff and class
11 members during rest periods.

12 92. As a result of Defendants' practices and policies, Plaintiff and class members
13 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
14 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
15 Plaintiff had her rest periods interrupted or cut short, and would return to work when the
16 restaurant became busy with customers due to the heavy workload, lack of coverage, and failure
17 to schedule rest periods.

18 93. Defendants have also engaged in a systematic, company-wide practice and/or
19 policy of not paying rest period premiums owed when rest periods are not authorized and
20 permitted. As a result, Defendants denied Plaintiff and class members rest periods and failed
21 to pay them rest period premiums due, in violation of Labor Code section 226.7 and the
22 applicable IWC Wage Order.

23 94. Defendants' conduct violates the applicable IWC Wage Order and California
24 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
25 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
26 compensation for each work day that a compliant rest period was not authorized and permitted.

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1 **FIFTH CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**
3 **Statements and Failure to Maintain Accurate Payroll Records**
4 **(Against all Defendants)**

5 95. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

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

12 97. At all relevant times, Defendants have knowingly and intentionally provided
13 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For
14 example, Defendants issued uniform wage statements to Plaintiff and Subclass members that
15 fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
16 applicable hourly rates in effect during the pay period, including overtime rates of pay, and the
17 corresponding number of hours worked at each hourly rate. Specifically, Defendants violated
18 sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

19 98. Because Defendants did not accurately record the time Plaintiff and Subclass
20 members spent working off the clock and deducted time from Plaintiff's and Subclass members'
21 records for meal periods that were interrupted and/or missed (and therefore time for which they
22 should have been paid), Defendants did not list the correct amount of gross wages and net wages
23 earned by Plaintiff and Subclass members in compliance with section 226(a)(1) and 226(a)(5).
24 For the same reason, Defendants failed to accurately list the total number of hours worked by
25 Plaintiff and Subclass members in violation of section 226(a)(2), and failed to list the applicable
26 hourly rates of pay in effect during the pay period and corresponding accurate number of work
27 hours worked at each hourly rate in violation of section 226(a)(9).

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1 99. The wage statement deficiencies also include, without limitation, failing to list
2 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
3 piece-rate basis; failing to list all deductions; failing to list the name of the employee and only
4 the last four digits of his or her social security number or an employee identification number
5 other than a social security number; failing to list the name and address of the legal entity that
6 is the employer; failing to list the inclusive dates of the period for which employees were paid;
7 and/or failing to state all hours worked as a result of not recording or stating hours worked off-
8 the-clock.

9 100. California Labor Code section 1198 provides that the maximum hours of work
10 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
11 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
12 of any employees for longer hours than those fixed by the order or under conditions of labor
13 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
14 are required to keep accurate time records showing when the employee begins and ends each
15 work period and meal period. During the relevant time period, Defendants failed, on a
16 company-wide basis, to keep accurate records of work period and meal period start and stop
17 times for Plaintiff and Subclass members, in violation of section 1198. As stated, Defendants
18 also engaged in a company-wide practice and/or policy of falsifying Plaintiff’s and Subclass
19 members’ time records by recording that compliant meal periods were taken regardless of if or
20 when meal periods were actually taken, and thereby failed to keep accurate records of meal start
21 and end times for Plaintiff and Subclass members.

22 101. California Labor Code section 1174(d) provides that “[e]very person employing
23 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
24 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
25 plants or establishments at which employees are employed, payroll records showing the hours
26 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
27 applicable piece rate paid to, employees employed at the respective plants or establishments. . .
28 .” At all relevant times, and in violation of Labor Code section 1174(d), Defendants willfully

1 failed to maintain accurate payroll records for Plaintiff and Subclass members showing the daily
2 hours they worked and the wages paid thereto as a result of failing to record the off-the-clock
3 hours that they worked.

4 102. Plaintiff and Subclass members are entitled to recover from Defendants the
5 greater of their actual damages caused by Defendants' failure to comply with California Labor
6 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
7 employee.

8 **SIXTH CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 226(b)-(c), 432, and 1198.5—Failure to Produce** 10 **and/or Permit Inspection of Records and Instruments Signed**

11 103. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
12 and every allegation set forth above.

13 104. At all relevant times herein, California Labor Code section 226(b) provides that
14 every employer shall furnish current and former employees the right to inspect or copy records
15 pertaining to their employment, upon reasonable request to the employer. Labor Code Section
16 226(c) provides that an employer must comply with a request made pursuant to Labor Code
17 section 226(b) no later than 21 calendar days from the date of the employee's request. California
18 Labor Code section 226(f) states "[a] failure by an employer to permit a current or former
19 employee to inspect or copy records within the time set forth in subdivision (c) entitles the
20 current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar
21 (\$750) penalty from the employer." California Labor Code section 226(h) states "[a]n employee
22 may also bring an action for injunctive relief to ensure compliance with this section, and is
23 entitled to an award of costs and reasonable attorney's fees."

24 105. At all times relevant herein, California Labor Code section 432 states "[i]f an
25 employee or applicant signs any instrument relating to the obtaining or holding of employment,
26 he shall be given a copy of the instrument upon request." California Labor Code section 433
27 states "[a]ny person violating this article is guilty of a misdemeanor."

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106. At all times relevant herein, California Labor Code section 1198.5 requires that an employer provide a copy of an employee's personnel record no later than 30 days from the date the employer receives a written request. If an employer fails to satisfy this written request, the former employee may recover a penalty of \$750 from the employer. Cal. Lab. Code § 1198.5(k). The former employee may also bring an action for injunctive relief and may recover costs and reasonable attorney's fees. Cal. Lab. Code § 1198.5(l).

107. At all times relevant herein, IWC Wage Order 5-2001, subdivision 7(A), provides "[e]very employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number. (2) Birth date, if under 18 years, and designation as a minor. (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded. (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee. (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request." IWC Wage Order 5-2001, subdivision 7(C), also provides "[a]ll required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request."

108. During the relevant time period, Plaintiff sent Defendants reasonable written requests for documents and records relating to his employment with Defendants. During the relevant time period, Defendants failed to produce for inspection and copying or otherwise permit inspection and copying of documents and records relating to Plaintiff's employment. For example, on November 13, 2020, Plaintiff sent a written request to Defendants via FedEx overnight mail. On November 16, 2020, FedEx confirmed Defendants received Plaintiff's written request for records. To date, Defendants have failed to even respond to Plaintiff's

1 written request for her records. Thus, over 21 days have passed from the date that Plaintiff sent
2 Defendants a reasonable written request for documents and records relating to her employment,
3 and Defendants have failed to comply with the request in violation of Labor Code section 226(b)
4 and the applicable IWC Wage Order.

5 109. Plaintiff and class members are therefore entitled to recover statutory penalties
6 of \$750 per employee, injunctive relief, and attorney's fees and costs, pursuant to California
7 Labor Code sections 226(f) and (h) and/or 1198.5 (k) and (l).

8 **SEVENTH CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon**

10 **Termination**

11 **(Against all Defendants)**

12 110. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
13 and every allegation set forth above.

14 111. This cause of action is dependent upon, and wholly derivative of, the overtime
15 wages, minimum wages, and/or meal and rest period premiums that were not timely paid to
16 Plaintiff and those class members no longer employed by Defendants upon their termination.

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

24 113. Defendants willfully failed to pay Plaintiff and class members who are no longer
25 employed by Defendants the earned and unpaid wages set forth above, including but not limited
26 to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time
27 of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

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114. Defendants' failure to pay Plaintiff and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

EIGHTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During Employment (Against all Defendants)

115. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

116. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, and/or meal and rest period premiums, that were not timely paid to Plaintiff and those class members.

117. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

118. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth (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 first (1st) and the tenth (10th) day of the following month.

119. At all times relevant herein, Labor Code section 204 provides 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, at all times relevant herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages

1 for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7)
2 calendar days following the close of the payroll period.

3 120. During the relevant time period, Defendants willfully failed to pay Plaintiff and
4 class members all wages due including, but not limited to, overtime wages, minimum wages,
5 and/or meal and rest period premiums, within the time periods specified by California Labor
6 Code section 204.

7 121. Defendants' failure to pay Plaintiff and class members all wages due violates
8 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
9 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

10 **NINTH CAUSE OF ACTION**

11 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 12 **(Against all Defendants)**

13 122. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
14 and every allegation set forth above.

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

25 124. During the relevant time period, Defendants had a company-wide policy of
26 requiring Plaintiff and class members to utilize their own personal cellular phones and cellular
27 data to carry out their job duties, but Defendants failed to reimburse them for the costs of their
28 work-related cellular phone expenses. Plaintiff and class members were required to use their

1 personal cellular phones to complete their work-related tasks, such as discussing work-related
2 matters with supervisors. For example, Defendants required Plaintiff to respond to calls from
3 her supervisor on her personal cellular phone to discuss restaurant operations. Although
4 Defendants required Plaintiff and class members to utilize their personal cellular phones to carry
5 out their work-related responsibilities, Defendants failed to reimburse them for this cost.

6 125. Defendants also had a company-wide policy of requiring Plaintiff and class
7 members to utilize their own personal vehicles or obtain alternate transportation to carry out
8 company business, but failed to reimburse them for all costs of travel, including mileage.
9 Defendants required Plaintiff and class members to drive to various McDonald's restaurants
10 owned by Defendants throughout the Inland Empire to undergo training. For example, Plaintiff
11 was required to drive 15-20 miles roundtrip to and from restaurants in Ontario and Montclair,
12 California, to undergo training. Although Defendants required Plaintiff and class members to
13 use their own personal vehicles or obtain alternate transportation to complete work-related tasks
14 as part of their assigned job duties, Defendants never reimbursed them for all of their travel
15 expenses.

16 126. Defendants could have provided Plaintiff and class members with the actual tools
17 for use on the job, such as company phones and company vehicles, or, Defendants could have
18 reimbursed employees for the costs of their cellular phone, mileage, and travel expenses.
19 Instead, Defendants passed these operating costs off onto Plaintiff and class members. At all
20 relevant times, Plaintiff did not earn at least two (2) times the minimum wage.

21 127. Defendants' company-wide policy and/or practice of passing on their operating
22 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
23 have intentionally and willfully failed to reimburse Plaintiff and other class members for
24 necessary business-related expenses and costs.

25 128. Plaintiff and class members are entitled to recover from Defendants their
26 business-related expenses incurred during the course and scope of their employment, plus
27 interest.

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1 **TENTH CAUSE OF ACTION**

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

3 **(Against all Defendants)**

4 129. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 130. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
7 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
8 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a), 226.7,
9 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c)
10 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
11 those Labor Code sections not found in section 2699.5, including sections 226(b)-(c), 246, 432,
12 516, 1182.12, 1198.5, and 2810.5.

13 131. Defendants’ conduct, as alleged herein, violates numerous sections of the
14 California Labor Code, including, but not limited to, the following:

- 15 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
16 Wage Order for Defendants’ failure to compensate Plaintiff and other
17 aggrieved employees with all required overtime pay, as alleged herein;
- 18 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198,
19 and the applicable IWC Wage Order for Defendants’ failure to
20 compensate Plaintiff and other aggrieved employees with at least
21 minimum wages for all hours worked, as alleged herein;
- 22 (c) Violation of Labor Code sections 226.7, 512, 516, and 1198, and the
23 applicable IWC Wage Order for Defendants’ failure to provide Plaintiff
24 and other aggrieved employees with meal periods, as alleged herein;
- 25 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable
26 IWC Wage Order for Defendants’ failure to authorize and permit Plaintiff
27 and other aggrieved employees to take rest periods, as alleged herein;
- 28 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable

- 1 IWC Wage Order for failure to provide accurate and complete wage
2 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 3 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
4 IWC Wage Order for failure to maintain payroll records, as alleged
5 herein;
- 6 (g) Violations of Labor Code sections 226(b)-(c), 432, and 1198.5, and the
7 applicable IWC Wage Order for failure to produce copies or allow
8 inspection of Plaintiff's and other aggrieved employees' own personnel
9 and other employment records upon written request within the statutory
10 time limits, as alleged herein;
- 11 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
12 earned wages upon termination, as alleged herein;
- 13 (i) Violation of Labor Code section 204 for failure to pay all earned wages
14 during employment, as alleged herein;
- 15 (j) Violation of Labor Code section 246 for failure to provide written notice
16 of paid sick leave available, or paid time off, as set forth below;
- 17 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
18 and other aggrieved employees for all business expenses necessarily
19 incurred, as alleged herein; and
- 20 (l) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
21 provide written notice of information material to other aggrieved
22 employees' employment with Defendants, as set forth below.

23 132. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
24 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
25 days from the commencement of employment with paid sick days, to be accrued at least one
26 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),
27 employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent
28 paid leave or paid time off) in each year of the employee's employment. Further, section 246(h)

1 provides that an employer must provide an employee with written notice that sets forth the
2 amount of paid sick leave available, or paid time off that an employer provides in lieu of sick
3 leave, for use on either the employee's itemized wage statement or in a separate written
4 statement provided on the designated pay date with the employee's wages. The penalties
5 described in this article for a violation of this subdivision shall be in lieu of the penalties for a
6 violation of Section 226.

7 133. During the relevant time period, Defendants failed, on a company-wide basis, to
8 provide Plaintiff and other aggrieved employees written notice on wage statements and/or other
9 separate written statements that listed the requisite information set forth in Labor Code section
10 246(i). Defendants' ongoing and systematic failure to provide written notice of sick leave
11 benefits to Plaintiff and other aggrieved employees violates California Labor Code section
12 246(i). Plaintiff and other aggrieved employees are therefore entitled to recover civil penalties
13 pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

14 134. At all relevant times herein, California Labor Code section 2810.5 provides that
15 at the time of hiring, an employer must provide written notice to employees containing basic
16 and material payroll information, including, among other things, the rate(s) of pay and basis
17 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
18 including any rates for overtime, the regular payday designated by the employer, and any
19 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
20 Code § 2810.5(a)(1)(A)-(C).

21 135. During the relevant time period, Defendants failed to provide Plaintiff and other
22 aggrieved employees with written notice that lists all the requisite information set forth in Labor
23 Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiff and other aggrieved
24 employees with written notice of basic information regarding their employment with
25 Defendants is in violation of Labor Code section 2810.5. Plaintiff and other aggrieved
26 employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
27 2699(a), (f), and (g).

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1 **ELEVENTH CAUSE OF ACTION**

2 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

3 **Unlawful Business Practices**

4 **(Against all Defendants)**

5 136. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 137. Defendants are “persons” as defined by California Business & Professions Code
8 sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or
9 associations.

10 138. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
11 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
12 suffered injury in fact and has lost money as a result of Defendants’ unlawful business practices.
13 Plaintiff seeks to enforce important rights affecting the public interest within the meaning of
14 Code of Civil Procedure section 1021.5.

15 139. Defendants’ activities, as alleged herein, are violations of California law, and
16 constitute unlawful business acts and practices in violation of California Business & Professions
17 Code sections 17200, *et seq.*

18 140. A violation of California Business & Professions Code sections 17200, *et seq.*
19 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
20 policies and practices have violated state law in at least the following respects:

- 21 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
22 class members, to work overtime without paying them proper
23 compensation in violation of California Labor Code sections 510 and
24 1198 and the applicable IWC Wage Order, as alleged herein;
- 25 (b) Failing to pay at least minimum wage to Plaintiff and class members in
26 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1,
27 and 1198 and the applicable IWC Wage Order, as alleged herein;

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- (c) Failing to provide uninterrupted meal periods to Plaintiff and class members in violation of California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (d) Failing to authorize and permit Plaintiff and class members to take uninterrupted rest periods in violation of California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- (e) Failing to provide Plaintiff and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order, as alleged herein;
- (f) Failing to produce copies or allow inspection of Plaintiff's and class members' own personnel and other employment records upon written request within the statutory time limits, in violation of Labor Code sections 226(b)-(c), 432, and 1198.5, and the applicable IWC Wage Order, as alleged herein;
- (g) Failing timely to pay all earned wages to Plaintiff and class members in violation of California Labor Code section 204, as alleged herein;
- (h) Failing to provide written notice of paid sick leave or paid time off available to Plaintiff and class members in violation of California Labor Code section 246(i), as set forth below;
- (i) Failing to reimburse Plaintiff and class members for all business expenses necessarily incurred in violation of California Labor Code section 2802, as alleged herein; and
- (j) Failing to provide written notice of information material to Plaintiff's and class members' employment with Defendants in violation of Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

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1 141. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to
2 provide employees who have worked in California for 30 or more days from the commencement
3 of employment with paid sick days, to be accrued at least one hour for every 30 hours worked.
4 Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent
5 paid leave or paid time off) in each year of the employee's employment. Codified at California
6 Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that
7 an employer must provide an employee with written notice that sets forth the amount of paid
8 sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on
9 either the employee's itemized wage statement or in a separate written statement provided on
10 the designated pay date with the employee's wages. The penalties described in this article for
11 a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

12 142. During the relevant time period, Defendants have failed, on a company-wide
13 basis, to provide Plaintiff and class members written notice on wage statements and/or other
14 separate written statements that listed the requisite information set forth in Labor Code section
15 246(i). Defendants' ongoing and systematic failure to provide written notice of sick leave
16 benefits to Plaintiff and class members violates California Labor Code section 246(i).

17 143. At all relevant times herein, California's Wage Theft Prevention Act was enacted
18 to ensure that employers provide employees with basic information material to their
19 employment relationship at the time of hiring, and to ensure that employees are given written
20 and timely notice of any changes to basic information material to their employment. Codified
21 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
22 time of hiring, an employer must provide written notice to employees containing basic and
23 material payroll information, including, among other things, the rate(s) of pay and basis thereof,
24 whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
25 any rates for overtime, the regular payday designated by the employer, and any allowances
26 claims as part of the minimum wage, including meal or lodging allowances. Labor Code
27 § 2810.5(a)(1)(A)-(C).

28 ///

144. At all relevant times, on information and belief, Defendants failed, on a company-wide basis, to provide written notice to Plaintiff and class members that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide Plaintiff and class members with written notice of basic information regarding their employment with Defendants is in violation of Labor Code section 2810.5.

145. As a result of the violations of California law herein described, Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged herein.

146. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and class members; and an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

TWELFTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, et seq. –

Unfair Business Practices

(Against all Defendants)

147. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

148. Defendants are “persons” as defined by California Business & Professions Code sections 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

149. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants' unfair business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

150. Defendants’ activities, namely Defendants’ company-wide practice and/or policy of not paying Plaintiff and class members all meal and rest period premiums due to them under Labor Code section 226.7, deprived Plaintiff and class members of the compensation guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiff and class members as part of their employment with Defendants, and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

151. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants’ policies and practices have violated the spirit of California’s meal and rest period laws and constitute acts against the public policy behind these laws.

152. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys’ fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys’ fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff

1 reserves the right to amend her prayer for relief to seek a different amount.

2 **Class Certification**

3 2. That this case be certified as a class action;

4 3. That Plaintiff be appointed as the representative of the Class and Subclass;

5 4. That counsel for Plaintiff be appointed as class counsel.

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

7 5. That the Court declare, adjudge, and decree that Defendants violated California
8 Labor Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to
9 pay all overtime wages due to Plaintiff and class members;

10 6. For general unpaid wages at overtime wage rates and such general and special
11 damages as may be appropriate;

12 7. For pre-judgment interest on any unpaid overtime compensation commencing
13 from the date such amounts were due, or as otherwise provided by law;

14 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
15 California Labor Code section 1194(a); and

16 9. For such other and further relief as the Court may deem equitable and
17 appropriate.

18 **As to the Second Cause of Action**

19 10. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage
21 Order by willfully failing to pay minimum wages to Plaintiff and class members;

22 11. For general unpaid wages and such general and special damages as may be
23 appropriate;

24 12. For pre-judgment interest on any unpaid compensation from the date such
25 amounts were due, or as otherwise provided by law;

26 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
27 California Labor Code section 1194(a);

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1 14. For liquidated damages pursuant to California Labor Code section 1194.2; and
2 15. For such other and further relief as the Court may deem equitable and
3 appropriate.

4 **As to the Third Cause of Action**

5 16. That the Court declare, adjudge, and decree that Defendants violated California
6 Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order by
7 willfully failing to provide all meal periods to Plaintiff and class members;

8 17. That the Court make an award to the Plaintiff and class members of one (1) hour
9 of pay at each employee's regular rate of pay for each workday that a meal period was not
10 provided;

11 18. For all actual, consequential, and incidental losses and damages, according to
12 proof;

13 19. For premiums pursuant to California Labor Code section 226.7(c);

14 20. For pre-judgment interest on any unpaid meal period premiums from the date
15 such amounts were due, or as otherwise provided by law;

16 21. For attorneys' fees pursuant to California Code of Civil Procedure section
17 1021.5, or as otherwise provided by law; and

18 22. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Fourth Cause of Action**

21 23. That the Court declare, adjudge and decree that Defendants violated California
22 Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully
23 failing to authorize and permit Plaintiff and class members to take all rest periods;

24 24. That the Court make an award to the Plaintiff and class members of one (1) hour
25 of pay at each employee's regular rate of pay for each workday that a rest period was not
26 authorized and permitted;

27 25. For all actual, consequential, and incidental losses and damages, according to
28 proof;

1 38. For general and special damages as may be appropriate;

2 39. For injunctive relief pursuant to California Labor Code section 226(h) and
3 1198.5(l) including, but not limited to, an order requiring Defendants to produce for inspection
4 and copying or otherwise permit inspection and copying of records relating to Plaintiff's
5 employment with Defendants as soon as reasonably practical;

6 40. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
7 California Labor Code section 226(h) and 1198.5(l); and

8 41. For such other and further relief as the Court may deem equitable and
9 appropriate.

10 **As to the Seventh Cause of Action**

11 42. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
13 and/or meal and rest period premiums owed at the time of termination of the employment of
14 Plaintiff and other terminated class members;

15 43. For all actual, consequential and incidental losses and damages, according to
16 proof;

17 44. For waiting time penalties according to proof pursuant to California Labor Code
18 section 203 for all employees who have left Defendants' employ;

19 45. For pre-judgment interest on any unpaid wages from the date such amounts were
20 due, or as otherwise provided by law;

21 46. For attorneys' fees pursuant to California Code of Civil Procedure section
22 1021.5, or as otherwise provided by law; and

23 47. For such other and further relief as the Court may deem equitable and
24 appropriate.

25 **As to the Eighth Cause of Action**

26 48. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime
28 wages, minimum wages, and/or meal and rest period premiums during their employment;

49. For all actual, consequential and incidental losses and damages, according to proof;

50. For statutory penalties according to proof pursuant to California Labor Code section 210;

51. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

52. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

53. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

54. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiff and class members;

55. For unpaid business-related expenses and such general and special damages as may be appropriate;

56. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;

57. For all actual, consequential, and incidental losses and damages, according to proof;

58. For attorneys' fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and

59. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

60. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other aggrieved employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and

1 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512, 516, and
2 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
3 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
4 statements and maintain accurate payroll records); 226(b)-(c), 432, and 1198.5 (by failing to
5 produce copies or allow inspection of records and instruments signed); 201, 202, and 203 (by
6 failing timely to pay all earned wages upon termination); 204 (by failing timely to pay all earned
7 wages during employment); 246 (by failing to provide written notice of paid sick leave or paid
8 time off available); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to
9 provide written notice of information material to employment);

10 61. For civil penalties pursuant to California Labor Code sections 210, 226.3, 226(f),
11 248.5, 256, 558, 1174.5, 1197.1, 1198.5(k), and/or 2699(a), (f) and (g), for violations of
12 California Labor Code sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432, 510, 512(a),
13 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5;

14 62. For attorneys' fees and costs pursuant to California Labor Code section
15 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California
16 Labor Code sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432, 510, 512(a), 516, 1174(d),
17 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5;

18 63. For pre-judgment and post-judgment interest as provided by law; and

19 64. For such other and further relief as the Court may deem equitable and
20 appropriate.

21 **As to the Eleventh Cause of Action**

22 65. That the Court declare, adjudge and decree that Defendants' conduct of failing
23 to provide Plaintiff and class members all overtime wages due to them, failing to provide
24 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
25 class members all meal periods, failing to authorize and permit Plaintiff and class members to
26 take all rest periods, failing to provide Plaintiff and class members accurate and complete wage
27 statements, failing to maintain accurate payroll records for Plaintiff and class members, failing
28 to produce copies or allow inspection of records and instruments signed, failing timely to pay

1 Plaintiff and class members all earned wages during employment, failing to provide Plaintiff
2 and class members with written notice of paid sick leave or paid time off available, failing to
3 reimburse Plaintiff and class members for business-related expenses, and failing to provide
4 written notice of information material to employment, constitutes an unlawful business practice
5 in violation of California Business and Professions Code sections 17200, *et seq.*;

6 66. For restitution of unpaid wages to Plaintiff and all class members and
7 prejudgment interest from the day such amounts were due and payable;

8 67. For the appointment of a receiver to receive, manage and distribute any and all
9 funds disgorged from Defendants and determined to have been wrongfully acquired by
10 Defendants as a result of violations of California Business & Professions Code sections 17200,
11 *et seq.*;

12 68. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Code of Civil Procedure section 1021.5; and

14 69. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 **As to the Twelfth Cause of Action**

17 70. That the Court declare, adjudge and decree that Defendants' conduct of denying
18 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes an
19 unfair business practice in violation of California Business and Professions Code sections
20 17200, *et seq.*;

21 71. For restitution of the statutory benefits under section 226.7 unfairly withheld
22 from Plaintiff and class members and prejudgment interest from the day such amounts were due
23 and payable;

24 72. For the appointment of a receiver to receive, manage and distribute any and all
25 funds disgorged from Defendants and determined to have been wrongfully acquired by
26 Defendants as a result of violations of California Business & Professions Code sections 17200,
27 *et seq.*;

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1 73. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Code of Civil Procedure section 1021.5;

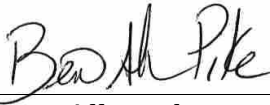
3 74. For pre-judgment and post-judgment interest as provided by law; and

4 75. For such other and further relief as the Court may deem equitable and
5 appropriate.

6
7 Dated: May 27, 2021

Respectfully submitted,

8 Capstone Law APC

9 By: 

10 Bevin Allen Pike

11 Daniel Jonathan

Trisha K. Monesi

12 Attorneys for Sally Porter
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PROOF OF SERVICE

EXHIBIT “1”

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

December 7, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/295>)

Subject: *Sally Porter v. Indian Hill Management, Inc., et al.*

Dear PAGA Administrator:

This office represents Sally Porter in connection with her claims under the California Labor Code. Ms. Porter was an employee of INDIAN HILL MANAGEMENT, INC. and/or WEBB FAMILY ENTERPRISES, INC. For the purpose of this letter, Ms. Porter collectively refers to these entities as “IHM.”

The employers may be contacted directly at the addresses below:

INDIAN HILL MANAGEMENT, INC.
3155 E. SEDONA CT STE A
ONTARIO CA 91764

WEBB FAMILY ENTERPRISES, INC.
3155 SEDONA CT STE A
ONTARIO CA 91764

Ms. Porter 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”). Ms. Porter seeks relief on behalf of herself, the State of California, and other persons who are or were employed by IHM 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.

IHM employed Ms. Porter as an hourly paid, non-exempt employee from approximately February 2018 to July 2020. Ms. Porter worked for IHM as an Assistant Manager at its McDonald’s restaurant in Rancho Cucamonga, California. During her employment, Ms. Porter typically worked seven (7) to eight (8) hours or more per day, five (5) days per week. At the time her employment ended, Ms. Porter was compensated approximately \$14.15 per hour. Her job duties included, without limitation,

monitoring food safety; taking customers' orders; cooking and serving food and drink to customers; performing general maintenance; and cleaning the kitchen, restroom, and dining areas.

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

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

INDIAN HILL MANAGEMENT, INC. and WEBB FAMILY ENTERPRISES, INC. are California corporations. IHM owns and operates at least 16 McDonald's franchise restaurants in Southern California. Upon information and belief, IHM maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Ontario, California, for all non-exempt, hourly paid employees working for IHM in California, including Ms. Porter and other aggrieved employees. At all relevant times, IHM issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Porter and other aggrieved employees, regardless of its location or position.

Upon information and belief, IHM maintains a centralized Payroll department at its corporate headquarters in Ontario, California, which processes payroll for all non-exempt, hourly paid employees working for IHM in California, including Ms. Porter and other aggrieved employees. Further, IHM issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Porter and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, IHM utilized the same methods and formulas when calculating wages due to Ms. Porter 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) 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.

IHM willfully failed to pay all overtime wages owed to Ms. Porter and other aggrieved employees. During the relevant time period, Ms. Porter and other aggrieved employees were not paid overtime

¹ These facts, theories, and claims are based on Ms. Porter's experience and counsel's review of those records currently available relating to Ms. Porter'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, Ms. Porter reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

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.

During the relevant time period, IHM 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 not enough employees on duty to handle the workload and attend to customers. Moreover, IHM had a practice of failing to schedule meal periods, which further caused Ms. Porter and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this inadequate meal period coverage, Ms. Porter and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Ms. Porter had her meal periods cut short or interrupted to assist other employees in taking and preparing orders to meet customer demands.

In conjunction with understaffing its restaurants, on information and belief, IHM had a requirement that a managerial employee, such as an Assistant Manager, be present on the restaurant floor at all times and prohibited managers from leaving the premises unless another manager was also on duty, resulting in a lack of meal period coverage for managerial employees. At the same time, the labor budgets IHM implemented did not always allow for more than one manager to be on the schedule at all times. As a result, Ms. Porter and other managerial employees were sometimes the only managers on duty, and were the only employees authorized to grant or access certain permissions in IHM's point-of-sale system. Because managerial employees were effectively prohibited from leaving IHM's premises for meal periods without coverage, and because there were too few employees and other managers on duty to handle the workload and attend to customers, Ms. Porter and other aggrieved employees were denied uninterrupted 30-minute meal periods, and were required to work through and/or to return early from meal periods.

Moreover, IHM's company-wide timekeeping system prevented Ms. Porter and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. Porter and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal before the 30 minutes elapsed. Thus, IHM's timekeeping system further prevented Ms. Porter and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted. Further, because IHM frowned upon employees accruing meal period penalties, upon information and belief, IHM's management adjusted employee time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by IHM. Consequently, Ms. Porter and other aggrieved employees performed work during meal periods for which they were not paid.

IHM knew or should have known that as a result of these company-wide practices and/or policies, Ms. Porter and other aggrieved employees were performing their assigned duties during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Porter and other aggrieved employees occasionally 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, Ms. Porter and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. IHM's failure to pay Ms. Porter and other aggrieved

employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

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

Ms. Porter 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, due to IHM's company-wide practice of utilizing labor budgets, assignment of heavy workloads, subsequent lack of meal period coverage, and policy requiring managerial employees to stay on or near the restaurant premises during meal periods, Ms. Porter 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. Moreover, as stated, IHM systematically failed to pay Ms. Porter and other aggrieved employees for actual hours worked during unpaid meal periods, because IHM's timekeeping system locked out Ms. Porter and other aggrieved employees for 30 minutes when they clocked out for a meal period. Furthermore, as set forth above, in order to prevent employees from accruing meal period penalties, upon information and belief, IHM's management adjusted employee time records to reflect compliant meal periods and/or pressured employees to clock out for meal periods, but required them to continue working, time for which they were not paid.

Thus, IHM 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, IHM 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, IHM regularly failed to pay at least minimum wages to Ms. Porter 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.

Ms. Porter 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 periods 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.

During the relevant time period, as stated, IHM had, and continues to have, a company-wide policy and/or practice of understaffing locations due to labor budgeting, which, combined with heavy workloads, has resulted in a lack of meal period coverage and prevented Ms. Porter and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. In conjunction with understaffing its restaurants, as stated above, on information and belief, IHM had a requirement that a managerial employee be present on the restaurant floor at all times, but IHM's labor budgets did not always allow for more than one manager to be on the schedule at all times. As a result, Ms. Porter and other managerial employees were sometimes the only managers on duty, and were required to wait extended periods of time before taking meal periods, would have their meal periods interrupted, or would work through them in order to assist their coworkers and customers. For example, on several occasions, Ms. Porter was not able to take her meal period until the end of her shift due to her heavy workload.

In addition, as stated, IHM implemented an electronic timekeeping system that locked Ms. Porter and other aggrieved employees out and prevented them from clocking in early before the end of their 30-minute meal period. As a result of IHM's timekeeping system, Ms. Porter and other aggrieved employees were prevented from accurately recording when they had to return early from a meal period so that they could be compensated for that time worked. Furthermore, on information and belief, because IHM frowned upon employees accruing meal period penalties, IHM's management would adjust Ms. Porter's and other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by IHM.

As a result, Ms. Porter and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period, have their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, Ms. Porter would have her meal periods interrupted or cut short, due to a lack of coverage resulting from being the only managerial employee scheduled to work or because she needed to assist coworkers and attend to customers.

Moreover, IHM did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Porter 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.

At all times herein mentioned, IHM knew or should have known that, as a result of these policies, Ms. Porter and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. IHM further knew or should have known that they did not pay Ms. Porter and other aggrieved employees meal period premium wages when meal periods were late, interrupted, shortened, or missed, because IHM adjusted employee time records to reflect compliant meal periods, even if none were taken.

Furthermore, IHM 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, Ms. Porter and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that IHM did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, IHM did not pay other aggrieved employees at the correct rate of pay for premium wages because IHM systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, IHM failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Porter 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 sections 226.7, 516, 1198, and the applicable IWC Wage Order require employers to provide rest periods 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. 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, IHM regularly failed to authorize and permit Ms. Porter 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, IHM's company-wide labor budget policies and resultant understaffing, heavy workload, and lack of coverage prevented Ms. Porter and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. IHM also failed to schedule rest periods, which, coupled with IHM's failure to provide adequate rest period coverage, further led to Ms. Porter and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, IHM maintained a company-wide on-premises rest period policy, which mandated that Ms. Porter and other aggrieved employees remain on IHM's premises during their rest periods. Because Ms. Porter and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, IHM effectively maintained control over Ms. Porter and other aggrieved employees during rest periods.

As a result of IHM's practices and policies, Ms. Porter and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Porter had her rest periods interrupted or cut short, and would return to work when the restaurant became busy with customers due to the heavy workload, lack of coverage, and failure to schedule rest periods.

IHM 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, Ms. Porter and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that IHM did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, IHM did not pay other aggrieved employees at the correct rate of pay for premium wages because IHM failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, IHM failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Porter 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. IHM has not provided Ms. Porter 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, IHM has knowingly and intentionally provided Ms. Porter and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, IHM issued uniform wage statements to Ms. Porter 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, IHM violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because IHM did not record the time Ms. Porter and other aggrieved employees spent working off-the-clock and deducted time from Ms. Porter's and other aggrieved employees' records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), IHM did not list the correct amount of gross wages and net wages earned by Ms. Porter and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, IHM failed to accurately list the total number of hours worked by Ms. Porter 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).

Also, because IHM did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, IHM 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). IHM 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 "[keep, 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), IHM willfully failed to maintain accurate payroll records for Ms. Porter 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, IHM failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Ms. Porter and other aggrieved employees, in violation of section 1198. As stated, IHM also engaged in a company-wide practice and/or policy of falsifying Ms. Porter’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Porter and other aggrieved employees. Furthermore, in light of IHM’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, IHM kept no records of meal start and end times for second meal periods.

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

Ms. Porter 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 §§ 226(b), 432, and 1198.5 – Failure to Produce and/or Permit Inspection of Records and Instruments Signed

California Labor Code section 226(b) provides that every employer shall furnish current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. Labor Code Section 226(c) provides that an employer must comply with a request made pursuant to Labor Code section 226(b) no later than 21 calendar days from the date of the employee’s request. California Labor Code section 226(f) states “[a] failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer.” California Labor Code section 226(h) states “[a]n employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney’s fees.”

California Labor Code section 432 states “[i]f an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.” California Labor Code section 433 states “[a]ny person violating this article is guilty of a misdemeanor.”

California Labor Code section 1198.5 requires that an employer provide a copy of an employee’s personnel record no later than 30 days from the date the employer receives a written request. If an employer fails to satisfy this written request, the former employee may recover a penalty of \$750.00 from the employer. Cal. Lab. Code § 1198.5(k). The former employee may also bring an action for injunctive relief and may recover costs and reasonable attorney’s fees. Cal. Lab. Code § 1198.5(l).

The applicable IWC Wage Order No. 5-2001, section 7(A), provides “[e]very employer shall keep accurate information with respect to each employee including the following: (1) Full name, home address, occupation and social security number. (2) Birth date, if under 18 years, and designation as a minor. (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded. (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee. (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.” IWC Wage Order No. 5-2001, section 7(C), also provides “[a]ll required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee’s records shall be available for inspection by the employee upon reasonable request.”

During the relevant time period, Ms. Porter sent IHM reasonable written requests for documents and records relating to her employment with IHM. During the relevant time period, IHM failed to produce for inspection and copying or otherwise permit inspection and copying of documents and records relating to Ms. Porter’s employment. For example, on November 13, 2020, Ms. Porter sent a written request to IHM via FedEx overnight mail. On November 16, 2020, FedEx confirmed IHM received Ms. Porter’s written request for records. To date, IHM has failed to even respond to Ms. Porter’s written request for her records. Thus, over 21 days have passed from the date that Ms. Porter sent IHM a reasonable written request for documents and records relating to her employment, and IHM has failed to comply with the request in violation of Labor Code section 226(b) and the applicable IWC Wage Order.

Ms. Porter and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226(f) and (h), 1198.5(k)-(l), 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, IHM willfully failed to pay Ms. Porter and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premium wages, within the time periods specified by California Labor Code section 204.

Ms. Porter 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.

IHM willfully failed to pay Ms. Porter and other aggrieved employees who are no longer employed by IHM the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving IHM's employ.

Ms. Porter 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 § 246 – Failure to Provide Written Notice of Paid Sick Leave Benefits

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

During the relevant time period, IHM has failed to provide Ms. Porter and other aggrieved employees written notice on wage statements and/or other separate written statements that list the requisite information set forth in Labor Code section 246(i). IHM's ongoing and systematic failure to provide written notice of sick leave benefits to Ms. Porter and other aggrieved employees violates California Labor Code section 246(i).

Ms. Porter and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 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, IHM had a company-wide policy of requiring Ms. Porter and other aggrieved employees to utilize their own personal cellular phones and cellular data to carry out their job duties, but IHM failed to reimburse them for the costs of their work-related cellular phone expenses. Ms. Porter and other aggrieved employees were required to use their personal cellular phones to complete their work-related tasks, such as discussing work-related matters with supervisors. For example, IHM required Ms. Porter to respond to calls from her supervisor on her personal cellular phone to discuss restaurant operations. Although IHM required Ms. Porter and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, IHM failed to reimburse them for this cost.

Second, IHM had a company-wide policy of requiring Ms. Porter and other aggrieved employees to utilize their own personal vehicles or obtain alternate transportation to carry out company business, but failed to reimburse them for all costs of travel, including mileage. IHM required Ms. Porter and other aggrieved employees to drive to various McDonald's restaurants owned by IHM throughout the Inland Empire to undergo training. For example, Ms. Porter was required to drive 15-20 miles roundtrip to and from restaurants in Ontario and Montclair, California, to undergo training. As a further example, IHM required other aggrieved employees to drive to McDonald's restaurants in neighboring cities owned by IHM to obtain restaurant ingredients and supplies. Although IHM required Ms. Porter and other aggrieved employees to use their own personal vehicles or obtain alternate transportation to complete work-related tasks as part of their assigned job duties, IHM never reimbursed them for all of their travel expenses.

Third, during the relevant time period, IHM, on a company-wide basis, required 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 other aggrieved employees to clean their uniforms frequently and incur expenses for doing so. Due to the nature of restaurant work, other aggrieved employees' uniforms would become stained and/or acquire an unpleasant odor, and other aggrieved employees were required to wash their uniform shirts and aprons more frequently than they would otherwise do laundry and/or wash their uniform shirts separately from any other items, thus incurring additional utility and laundry expenses.

IHM could have provided Ms. Porter and other aggrieved employees with the actual tools for use on the job, such as company phones, company vehicles, and an adequate number of uniforms and/or access to laundering services. Or, IHM could have reimbursed employees for the costs of their cellular phone, mileage, travel expenses, and laundering costs. Instead, IHM passed these operating costs off onto Ms. Porter and other aggrieved employees. At all relevant times, Ms. Porter did not earn at least two (2) times the minimum wage.

Thus, IHM 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. Ms.

Porter 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.

IHM failed to provide Ms. Porter and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). IHM's failure to provide Ms. Porter and other aggrieved employees with written notice of basic information regarding their employment with IHM is in violation of Labor Code section 2810.5.

Ms. Porter 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." IHM, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Porter's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Porter seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Porter, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against IHM for violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 246, 432, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5.

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

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

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

Best Regards,



Anthony Castillo

Copy: INDIAN HILL MANAGEMENT, INC. (via U.S. Certified Mail); WEBB FAMILY ENTERPRISES, INC. (via U.S. Certified Mail)

CERTIFIED MAIL



7020 1290 0000 3958 7528

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

INDIAN HILL MANAGEMENT, INC.
3155 E. SEDONA CT STE A
ONTARIO CA 91764



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:

INDIAN HILL MANAGEMENT, INC.
3155 E. SEDONA CT STE A
ONTARIO CA 91764



9590 9402 5816 0034 8468 16

2. Article Number (Transfer from service label)

7020 1290 0000 3958 7528

PS Form 3811, July 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
- ☐ 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

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

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

OFFICIAL USE

Certified Mail Fee

\$ 3.50

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

- ☒ Return Receipt (hardcopy) \$ 2.150
- ☐ 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

INDIAN HILL MANAGEMENT, INC.
3155 E. SEDONA CT STE A
ONTARIO CA 91764

Postmark
Here

Porter v. Indian
Hill Management,
Inc.

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

See Reverse for Instructions

one
LAW APC
ry Park East, Ste 1000
s, CA 90067



7020 1290 0000 3958 7825

WEBB FAMILY ENTERPRISES, INC.
3155 SEDONA CT STE A
ONTARIO CA 91764



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:

WEBB FAMILY ENTERPRISES, INC.
3155 SEDONA CT STE A
ONTARIO CA 91764



9590 9402 5816 0034 8468 23

2. Article Number (Transfer from service label)

7020 1290 0000 3958 7825

PS Form 3811, July 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
- ☐ 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

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

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

WEBB FAMILY ENTERPRISES, INC.

Street and Apt. No. or PO Box No.
3155 SEDONA CT STE A

City, State, ZIP+4®
ONTARIO CA 91764

Postmark
Here

Porter v. Webb
Family Enterprises
Inc.

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

See Reverse for Instructions

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:

WEBB FAMILY ENTERPRISES, INC.
3155 SEDONA CT STE A
ONTARIO CA 91764



9590 9402 5816 0034 8468 23

2. Article Number (Transfer from service label)

7020 1290 0000 3958 7825

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Carly K

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

12/11/22

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

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:

INDIAN HILL MANAGEMENT, INC.
3155 E. SEDONA CT STE A
ONTARIO CA 91764



9590 9402 5816 0034 8468 16

2. Article Number (Transfer from service label)

7020 1290 0000 3958 7528

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Quir☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

12/15/10

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 (over \$500) | |

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

Domestic Return Receipt

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **May 27, 2021**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Rachel L. McClintock (SBN: 262006)
rachel.mcclintock@lewisbrisbois.com
Christopher W. Harmon (SBN: 258289)
christopher.harmon@lewisbrisbois.com
LEWIS BRISBOIS BISGAARD & SMITH
LLP
650 Town Center Drive, Suite 1400
Costa Mesa, CA 92626
Tel.: (714) 545-9200
Fax: (714) 850-1030

Attorneys for Defendants
INDIAN HILL MANAGEMENT, INC. and
WEBB FAMILY ENTERPRISES, INC.

- ☒ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.
- ☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.
- ☐ **BY FAX:** I hereby certify that this document was served from Los Angeles, California, by facsimile delivery on the parties listed herein at their most recent fax number of record in this action.
- ☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.
- ☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **May 27, 2021**, at Los Angeles, California.

Xochitl Tapia
Type/Print Name

Signature 