

Nazo Koulloukian, SBN 263809

nazo@koullaw.com

KOUL LAW FIRM

A Professional Law Corporation

3435 Wilshire Blvd., Suite 1710

Los Angeles, CA 90010

Telephone: (213) 761-5484

Facsimile: (818) 561-3938

Sahag Majarian, II, Esq. SBN 146621

Sahagii@aol.com

LAW OFFICES OF SAHAG MAJARIAN II

18250 Ventura Blvd.

Tarzana, CA 91356

Telephone: (818) 609-0807

Facsimile: (818) 609-0892

Attorneys for Plaintiff,

JESUS GONZALEZ, and all putative class members

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JESUS GONZALEZ, an individual, on
behalf of himself and all others similarly
situated,

Plaintiffs,

vs.

GOLD COAST BAKERIES, LLC, a
Delaware limited liability company,
and DOES 1-50, inclusive,

Defendants.

Case No.: 30-2021-01184280-CU-OE-CXC

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- 1. Failure to Pay Wages, Including Overtime Wages**
- 2. Failure to Pay Minimum Wage**
- 3. Failure to Provide Timely, Uninterrupted Meal Breaks**
- 4. Failure to Provide and/or Authorize Rest Breaks**
- 5. Failure to Provide Safe Working Conditions**
- 6. Failure to Pay Earned Wages Upon Discharge, Waiting Time Penalties**
- 7. Failure to Provide Timely, Accurate, Itemized Wage Statements**
- 8. Unlawful Business Practices Bus & Prof. Code §17200**
- 9. Private Attorneys General Penalties Labor Code §2698 et seq**

JURY TRIAL DEMANDED

1 Plaintiff JESUS GONZALEZ, individually, and on behalf of himself and all others
2 similarly situated, all aggrieved employees, and as a Private Attorney General for the
3 State of California (collectively “Plaintiff”), alleges as follows:

4 NATURE OF THE ACTION

5 1. Plaintiff brings this wage and hour class action complaint on behalf of himself,
6 and all others similarly situated against GOLD COAST BAKERIES, LLC, and the other
7 Defendants DOES 1-50, inclusive, (hereafter collectively “Defendants”). In this
8 Complaint, Plaintiff alleges that Defendants failed to pay all wages, including overtime
9 wages, owed to employees, failed to provide timely and uninterrupted meal breaks, failed
10 to provide compliant rest breaks, failed to pay minimum wage for all hours worked,
11 failed to provide safe working conditions, failed to provide accurate payroll records, and
12 are liable for waiting time penalties, and engaged in unfair competition. Accordingly,
13 Plaintiff now brings this employment class and PAGA representative action to recover
14 unpaid wages and related relief on behalf of himself, all others similarly situated. Plaintiff
15 has also provided notice of his claims pursuant to §2698 *et. seq.*, to the Labor and
16 Workforce and Development Agency (“LWDA”) and now brings this First Amended
17 Complaint, including claims for civil penalties under the Private Attorney General Act
18 (“PAGA”), Labor Code §2698 *et seq.*

19 2. Plaintiff has filed this as a class action, under Code of Civil Procedure section
20 382, and/or a representative action under Business & Professions Code §§17200 *et seq.*
21 and Labor Code §2699, seeking damages and penalties on behalf of himself and all other
22 persons who are or have been employed by Defendants from a time period as set forth
23 below as the “Class Period.”

24 3. The “Class Period” commences on the first day following the end of the class
25 period in *Agustin Hernandez v. Personnel Staffing Group, LLC*, Case No. 30-2017-
26 00899277-CU-OE-CXC (Orange County Superior Court January 26, 2017) to the date
27 the matter is resolved.
28

4. The “PAGA Period” is defined herein commences one year prior to the date of filing the PAGA Notice letter with the LWDA.

5. During the Class Period, Defendants had an unlawful policy and/or practice of: (1) failure to pay a lawful wage for all hours worked, including overtime hours; (2) failing to pay minimum wage for all hours worked; (3) failure to provide timely and uninterrupted meal breaks; (4) failure to provide and/or authorize rest breaks; (5) failure to provide safe working conditions; (6) failure to timely pay all wages owed bimonthly and upon termination; (7) failing to provide accurate payroll records; (8) engaging in unlawful business practices for unfair competition, and (9) civil penalties pursuant to Labor Code §2698 *et seq.*, Private Attorneys General Act.

6. Defendants have treated all persons employed in California in such a way as to violate California's laws governing prompt payment of wages owed. Plaintiffs assert that Defendants have knowingly and with conscious disregard of the law refused to pay the Class Members all wages, including overtime wages, for work performed and due. Class Members are owed their back pay, plus interest and/or premiums and penalties under Business and Professions Code §17203 to compensate Class Members for the delay in receiving wages due.

7. Defendants, by and through their actions, have engaged in unfair competition, requiring restitution to persons affected and disgorgement of profits so obtained.

THE PARTIES

8. Plaintiff JESUS GONZALEZ is a resident of the State of California and lives in Santa Ana, California. Plaintiff was employed as an hourly, nonexempt employee for Defendants. Plaintiff worked for Defendants until May 21, 2020, at or near minimum wage.

9. Defendant GOLD COAST BAKERIES, LLC is a Delaware limited liability company doing business in California with the capacity to sue and to be sued, and doing business, in the county of Orange, State of California.

10. Plaintiff is unaware of the true names, capacities, relationships, and extent of participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names, Plaintiff will amend this complaint when their true names and capabilities are ascertained.

11. Plaintiff is informed and believes and thereon alleges that each Defendants, directly or indirectly, or through agents or other persons, employed Plaintiff and other members of the class, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

JURISDICTION AND VENUE

12. Venue is proper in this judicial district because Defendants conduct business in this county and Defendants have legal obligations to Plaintiff and many of the class members in this case that arose in this county.

13. The monetary damages, restitution and statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. Based on information, investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars (\$25,000).

14. The California Superior Court has jurisdiction in this matter because Plaintiffs are residents of California and Defendants are incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

1 15. Plaintiff has exhausted administrative remedies and this Court has jurisdiction
2 over Plaintiff's and Class Members' claims for penalties for Defendant's Labor Code
3 violations under labor Code §§2699 and 2699.3.

4 5 **CLASS ACTION ALLEGATIONS**

6 16. During the Class Period and PAGA Period, Defendants committed various
7 violations of the California Labor Code, the UCL and the applicable IWC Wage Order,
8 as alleged below in more detail. Defendants enforce multiple policies that violate state
9 law which are intended to increase its own profits to the detriment of its employees.

10 17. Plaintiff and the putative class are employees of Defendants working in their
11 warehouse and baking facilities.

12 18. Plaintiffs were denied payment for all hour hours worked, including overtime
13 pay owed, resulting from Defendants' practices of underpaying Plaintiffs for each pay
14 period temperature checks took place. Defendants also failed to always properly
15 calculate wages and overtime for overnight shifts.

16 19. Because Plaintiffs and employees are working at or near minimum wage,
17 Defendants' failure to pay for all hours worked, including for all overtime hours
18 worked, resulted in payment of less than the statutory minimum wage to employees.

19 20. Regarding meal breaks, Defendants failed to maintain a compliant meal period
20 policy and practice, failing to provide all its hourly employees with their right to take a
21 timely, off-duty unpaid 30-minute meal period. Due to the press of work, and because
22 the status of the bread in the oven was of the highest importance, Plaintiffs frequently
23 missed meals, took late meals, or had meals interrupted. At least twice per week,
24 Plaintiffs were instructed to clock out before the fifth hour of work, but to keep
25 working. Additionally, because of the distance between the break room and the
26 timeclock, employees spent significant unpaid time walking. When Plaintiffs worked
27 shifts over 10 hours, Defendants did not permit a second meal period.

28 21. Regarding rest breaks, Defendants failed to maintain a policy and practice that
provides its employees with off-duty rest periods as required by California law. Plaintiff

1 and his fellow employees were often not allowed to take any breaks, as required by Cal.
2 Lab. Code §226.7, §512 and Wage Order 1-2001. Frequently, Plaintiff did not receive
3 required breaks because they were required to make sure the bread was baked properly.
4 Defendants failed to pay Plaintiffs, Class Members and Aggrieved Employees the
5 premium compensation (one hour of pay at the employee's regular rate of pay for
6 missed or untimely rest periods) mandated by Labor Code §226.7 (b) for these missed
7 rest periods.

8 **22.** Defendants also failed to timely pay all wages owed upon termination, and
9 failed to furnish accurate wage statements to Plaintiff, Class Members and Aggrieved
10 Employees. Finally, Defendants engaged in unfair competition.

11 **23.** Plaintiff brings this action on behalf of himself, and all other persons similarly
12 situated, to recover from Defendants unpaid overtime pursuant to the Industrial Wage
13 Order 1, alleging that Defendants frequently failed to pay all wages, including overtime
14 wages, owed to employees, failed to provide meal and rest breaks, failed to pay
15 minimum wage for all hours worked, failed to provide safe working conditions, failed
16 to provide accurate payroll records, and are liable for waiting time penalties, and
17 engaged in unfair competition under Business and Professions Code § 17200.

18 **24.** This action has been brought and may properly be maintained as a class action
19 pursuant to the provisions of Code of Civil Procedure § 382 and/or a representative
20 action under Business and Professions Code §§17200 et seq. and Labor Code §2699
21 because the proposed class is ascertainable and there is a well-defined community of
22 interest. Plaintiffs are among in excess of 100 employees with like job titles, duties,
23 and hourly wages, who have been similarly injured by Defendants' uniform unlawful
24 conduct.

25 **25.** The "Relevant Time Period" or proposed "Class Period" as defined herein
26 commences on the first day following the end of the class period in *Agustin Hernandez*
27 *v. Personnel Staffing Group, LLC*, Case No. 30-2017-00899277-CU-OE-CXC (Orange
28 County Superior Court January 26, 2017) to the date the matter is resolved.

1 26. The Plaintiff Class: “All current and former hourly, non-exempt employees of
2 Defendant in California, at any time during the Class Period.”

3 27. The proposed Subclasses are defined as follows:

- 4 a. All persons who are employed or have been employed by Defendants in
5 the State of California as hourly, non-exempt workers during the period
6 of the relevant statute of limitations, who worked one or more shifts in
7 excess of five (5) hours.
- 8 b. All persons who are employed or have been employed by Defendants in
9 the State of California as hourly, non-exempt workers during the period
10 of the relevant statute of limitations, who worked one or more shifts in
11 excess of six (6) hours.
- 12 c. All persons who are employed or have been employed by Defendants in
13 the State of California as hourly, non-exempt workers during the period
14 of the relevant statute of limitations, who worked one or more shifts in
15 excess of eight (8) hours.
- 16 d. All persons who are employed or have been employed by Defendants in
17 the State of California as hourly, non-exempt workers during the period
18 of the relevant statute of limitations, who worked one or more shifts in
19 excess of ten (10) hours.
- 20 e. All persons who are employed or have been employed by Defendants in
21 the State of California as hourly, non-exempt workers during the period
22 of the relevant statute of limitations, who worked one or more shifts in
23 excess of twelve (12) hours.
- 24 f. All persons who are employed or have been employed by Defendants in
25 the State of California as hourly, non-exempt workers during the period
26 of the relevant statute of limitations, who worked one or more shifts in
27 excess of three and one-half hours (3 ½), but less than or equal to six (6)
28 hours.

- g. All persons who are employed or have been employed by Defendants in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who worked one or more shifts in excess of six (6) hours, but less than or equal to ten (10) hours.
- h. All persons who are employed or have been employed by Defendants in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who separated their employment from Defendants.
- i. All persons who are employed or have been employed by Defendants in the State of California as hourly, non-exempt workers during the period of the relevant statute of limitations, who received pay for one or more pay periods.

28. Numerosity: Plaintiffs allege on information and belief that the Class Members exceed 100 and therefore are so numerous as to make it impracticable to bring them all before this Court.

29. Means of Identifying the Class: Plaintiffs allege on information and belief that the Class Members can be readily be identified through a review of Defendants' payroll records and the records of the company that handles payroll for Defendants.

30. Common Questions Predominate the Class: The rights which are the subject of this action are common to all of the Class Members. There are questions of law and fact presented herein which are common to the Class Members represented by Plaintiff and predominate over any questions that affect only individual members of the class. The common questions of law and fact include, but are not limited to, the following:

- i. Whether Defendants violated wage and hour laws by establishing a corporate policy and practice of underpaying for each pay period temperature checks take place;
- ii. Whether Defendants violated wage and hour laws by failure to always properly calculate wages and overtime for overnight shifts;

- 1 iii. Whether Defendants violated wage and hour laws by failing to provide
2 safe working conditions;
- 3 iv. Whether Defendants violated wage and hour laws by failing to provide
4 suitable climate control in its facilities;
- 5 v. Whether Defendants violated wage and hour laws in failing to make meal
6 breaks available;
- 7 vi. Whether Defendants violated wage and hour laws by failing to make rest
8 periods available;
- 9 vii. Whether Defendants failure to pay the Class Members all wages owed,
10 including overtime, violated Business & Professions Code § 17200;
- 11 viii. Whether Defendants failure to provide the Class Members rest periods
12 violated Business & Professions Code § 17200;
- 13 ix. Whether Defendants failed to provide accurate wage statements to
14 Plaintiff, Class Members and Aggrieved Employees as a consequence of
15 the above listed wrongful acts;
- 16 x. Whether Defendants failed to provide Class Members with correct final
17 wage statements;
- 18 xi. Whether Defendants failed to pay wages, including overtime and final
19 wages, to terminated or quitting employees in the Class on a timely basis;
- 20 xii. What is the appropriateness and nature of relief to each Plaintiff Class and
21 Subclass member;
- 22 xiii. Whether Defendants' actions violated Business & Professions Code §
23 17200;
- 24 xiv. Whether the Class Members are entitled to various penalties from
25 Defendants including, but not limited to, waiting-time penalties under
26 Labor Code §§ 201, 202, 203, 204, 226 and 558;
- 27 xv. Whether the Class Members are entitled to injunctive relief to enjoin any
28 further violations of wage and labor laws;

xvi. Whether the Class Members are entitled to penalties under Labor Code §2699; and

xvii. What is the extent of liability of each Defendant, including DOE defendants, to each Plaintiff Class and Subclass member?

31. Typicality: As alleged above, Plaintiff's claims are typical of the claims of all the Class Members and other members of the Class were subject to the same policies and practices.

32. Adequacy: Plaintiff is an adequate representative of the class in that his claims are typical of the Class Members and he has no interest antagonistic to or in conflict with the interests of the Class Members. Plaintiff is qualified to, and will, fairly and adequately protect the interests of the Class Members. Plaintiff is represented by attorneys who have substantial class action experience in wage-and-hour and class action law.

33. Superiority: Class action adjudication is superior to other available methods because class action will achieve economies of time, effort, and expense as compared to separate lawsuits, and avoid inconsistent outcomes, because the same issues can be adjudicated in the same manner for the entire class. Furthermore, as the damages suffered by each individual member of the class may be relatively small, the expenses and burden of individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Plaintiffs are currently unaware of any pending litigation commenced by any of the Class Members involving the same issues in this complaint. Further, it is desirable to concentrate the litigation of such claims in this forum, and there are no difficulties likely to be encountered in the management of the class action.

34. Manageability: Plaintiff is informed and believes that all allegations in this Complaint are capable of being determined on the same evidence and based primarily on review of corporate records and key testimony of Defendants' corporate representatives. To the extent statistical analysis and representative evidence is

1 necessary, Plaintiff and proposed class counsel will employ competent experts and
2 consultants in the field to determine and review evidence for both issues of liability and
3 damages in a scientifically reliable manner.

4 35. Plaintiffs request, pursuant to Rule 1857(a)(1) and Rule 3.766 of the California
5 Rules of Court, that the absent Class Members be notified by the best notice practicable
6 under the circumstances, including individual notice to all members who can be
7 identified through reasonable effort.

8
9 **FIRST CAUSE OF ACTION**
10 **FAILURE TO PAY EARNED WAGES, INCLUDING OVERTIME**
11 **Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199**
12 **(All Plaintiffs Against All Defendants)**

13 36. Plaintiffs reassert and re-allege paragraphs 1 through 33, inclusive, as if fully
14 set forth and incorporate said paragraphs herein by reference.

15 37. Defendants' conduct described in this complaint violates the provisions of
16 Labor Code §§ 218, 510 and IWC Wage Order 1.

17 38. During the Class Period, Labor Code Section 510 applied to Defendants'
18 employment of Plaintiff, Class Members and Aggrieved Employees. At all times
19 relevant hereto, Labor Code Section 510 and the applicable IWC order provided that it
20 was unlawful to employ persons such as members of the Class without compensating
21 them at a rate of pay either one and one-half (1½) or two (2) times that person's regular
22 rate of pay, depending on the number of hours worked by the person on a daily or
23 weekly basis. Specifically, Wage Order 1 provided that Defendants were required to
24 pay Plaintiff, Class Members and Aggrieved Employees at the rate of one and one-half
25 (1½) times the Class member's regular rate of pay if the Class member worked more
26 than eight (8) hours in a day or more than forty (40) hours in a work week.

27 Furthermore, Defendants were required to pay Plaintiff, Class Members and Aggrieved
28 Employees at the rate of two (2) times the Class member's regular rate of pay if the
Class member worked more than twelve (12) hours a day.

1 39. Plaintiff is informed and believes and, based thereon, alleges that, during the
2 Class period, Defendants failed to pay Plaintiff, Class Members and Aggrieved
3 Employees all of the wages, including overtime wages, that they were due and therefore
4 violated Labor Code Section 510 and the applicable IWC Wage Order.

5 40. Therefore, the Class Members are entitled to recover from Defendants unpaid
6 wages, plus interest thereon.

7 41. Employees are employed at or near minimum wage, thus failure to pay all
8 hours worked, including overtime hours worked, results in a payment of wages lower
9 than the statutory minimum wages in violation of Labor Code §1197, and the Class is
10 entitled to penalties under Labor Code §1197.1.

11 42. Plaintiffs allege on information and belief that Defendants' failure to pay the
12 Class Members all wages including overtime, as alleged in this cause of action, was
13 willful, and thus entitles the Class Members to penalties under Labor Code § 203.
14 Specifically, Labor Code § 203 provides that an employee's wages shall continue as a
15 penalty until paid or for a period of up to 30 days from the time they were due,
16 whichever period is shorter.

17 43. In addition, and pursuant to Labor Code § 558, Plaintiffs request that this
18 Court award civil penalties as set forth in § 558 for each pay period during which
19 Defendants failed to pay the Class Members their wages, as alleged above.

20 44. Plaintiffs further request an award of attorneys' fees pursuant to Labor Code
21 §§ 218.5 and 1194 and Code of Civil Procedure § 1021.5. Pursuant to Labor Code
22 §2699(a) Plaintiffs seek to recover civil penalties for which Defendants are liable for
23 the Labor Code violation as set forth in the foregoing. Plaintiffs also seek attorneys'
24 fees and costs pursuant to Labor Code §2699(g)(1).

25 ///

26 ///

27 ///

28 ///

///

**SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGE
Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199
(All Plaintiffs Against all Defendants)**

45. Plaintiffs incorporates all preceding paragraphs as if set forth in full herein.

46. Pursuant to Labor Code sections 1194, 1194.2, and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order.

47. Section 2(K) of Wage Order 4 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.”

48. Defendants failed to pay Plaintiff, Class Members and Aggrieved Employees for all hours worked as a result of Defendants’ practices described above. Defendants failed to always properly calculate wages and overtime for overnight shifts.

49. Additionally, when employees like Plaintiff and his coworkers earning near minimum wage do not receive payment for all hours worked, including as a result of Defendants’ practice of requiring them to participate in pre-shift temperature checks while off the clock, the result is that Plaintiff, Class Members and Aggrieved Employees are earning less than the statutory minimum wages for all hours worked.

50. Labor Code §1197 states that payment of a lower wage than the minimum wage so fixed is unlawful. When minimum wage employees are not paid for all hours worked, the result is that their wages, averaged over the total hours worked, amount to a rate lower than the legal minimum wage.

51. For all time worked but not compensated, Plaintiff, Class Members and Aggrieved Employees are entitled to not less than the California minimum wage, and pursuant to Labor Code section 1194.2, subdivision (a), liquidated damages in an amount equal to the unpaid minimum wage and interest thereon.

1 52. Pursuant to Labor Code section 1194, Plaintiff and the Class are also entitled
2 to attorneys' fees, costs and interest according to proof.

3 53. In violation of California law, Defendants have knowingly and willfully
4 refused to perform their obligations to compensate Plaintiff for all minimum wages
5 earned and for all hours worked. As a direct result, Plaintiff has suffered, and continue
6 to suffer, substantial losses related to the use and enjoyment of such wages, lost interest
7 on such wages, and expenses and attorneys' fees in seeking to compel Defendants to
8 fully perform their obligations under state law, all to their respective damage in
9 amounts according to proof at time of trial, but in amounts in excess of the minimum
10 jurisdiction of this Court. Defendants committed the acts alleged herein knowingly and
11 willfully, with the wrongful and deliberate intention of injuring the rights of Plaintiff
12 and the Class. Plaintiff and Class members are thus entitled to recover nominal, actual,
13 compensatory, punitive and exemplary damages in the amounts according to proof at
14 time of trial.

15 54. Defendants' conduct as described herein violates Labor Code sections 200,
16 218.5, 226, 558, 1194, and 1197. Therefore, pursuant to Labor Code sections 200,
17 218.5, 226, 558, 1194 and 1197.2, Plaintiff and the Class members are entitled to
18 recover the unpaid balance of wages owed by Defendants, plus interest, penalties,
19 attorneys' fees, expenses and cost of suit. Pursuant to Labor Code §2699(a) Plaintiffs
20 seek to recover civil penalties for which Defendants are liable for the Labor Code
21 violation as set forth in the foregoing. Plaintiffs also seek attorneys' fees and costs
22 pursuant to Labor Code §2699(g)(1).

23 **THIRD CAUSE OF ACTION**

24 **FAILURE TO PROVIDE TIMELY MEAL BREAKS**

25 **Cal. Labor Code §§226, 226.7, 512, 1199, 2698 *et seq.***

26 **(All Plaintiffs Against all Defendants)**

27 55. Plaintiffs incorporates all preceding paragraphs as if set forth in full herein.
28

1 56. Labor Code §512 (a) states: “An employer may not employ and employee for
2 a work period of more than five hours per day without providing the employee with a
3 meal period of not less than 30 minutes, except that if the total work period per day of
4 the employee is no more than six hours, the meal period may be waived by mutual
5 consent of both the employer and employee.”

6 57. IWC Wage Order states, in pertinent part: “No employer shall employ any
7 person for a work period of more than five (5) hours without a meal period of not less
8 than 30 minutes, except that when a work period of not more than six (6) hours will
9 complete the day’s work the meal period may be waived by mutual consent of the
10 employer and the employee. Unless the employee is relieved of all duty during a 30
11 minute meal period, the meal period shall be considered an on-duty meal period and
12 counted as time worked...” The Wage Order further provides, “[i]f an employer fails to
13 provide an employee a meal period in accordance with the applicable provisions of this
14 order, the employer shall pay the employee one (1) hour of pay at the employee’s
15 regular rate of compensation for each workday that the meal period is not provided.”

16 58. Based on both Labor Code §512(a) and the IWC Wage Order 8-2001,
17 Defendants’ meal policy and practice is non-compliant because employees breaks were
18 frequently missed, began late, or were prematurely interrupted. In addition, when
19 Plaintiffs worked 10 hour shifts, Defendants did not permit a second meal period.

20 59. Plaintiffs allege on information and belief that Defendants' failure to pay the
21 Meal Period Subclass Members the unpaid balance of these meal period wages upon the
22 termination of their employment, as alleged in this cause of action, was willful, and thus
23 entitles the Class Members to penalties under Labor Code § 203. Specifically, Labor
24 Code § 203 provides that an employee's wages shall continue as a penalty until paid or
25 for a period of up to 30 days from the time they were due, whichever period is shorter.

26 60. Plaintiff will seek restitution pursuant to Labor Code §558(a)(3) for himself
27 and the proposed members of the Meal Period Subclass for each violation of Labor
28 Code §226.7. Further, as a derivative claim of failing to pay the premium pay of one (1)
hour of pay at the employee’s regular rate of compensation for each workday that the

1 meal period is not provided, Plaintiff will seek statutory penalties under Labor Code
2 §226(a)(1) because the failure to pay such premium wages rendered he gross pay
3 calculations inaccurate in violation of Labor Code §226(e)(2)(B)(i). Plaintiffs further
4 seek reasonable costs of suit and reasonable attorney's fees as provided by the Labor
5 Code and Code of Civil Procedure §1021.5, or other applicable law. Pursuant to Labor
6 Code §2699(a) Plaintiffs seek to recover civil penalties for which Defendants are liable
7 for the Labor Code violation as set forth in the foregoing. Plaintiffs also seek attorneys'
8 fees and costs pursuant to Labor Code §2699(g)(1).

9
10 **FOURTH CAUSE OF ACTION**
11 **FAILURE TO PROVIDE REST BREAKS**
12 **Cal. Labor Code §§226, 226.7, 512, 558, 1198**
13 **(All Plaintiffs Against All Defendants)**

14 **61.** Plaintiffs incorporates all preceding paragraphs as if set forth in full herein.

15 **62.** California Labor Code § 226.7 provides that it is unlawful to require any
16 employee to work during rest period mandated by an applicable order of the IWC.

17 **63.** Plaintiffs allege on information and belief that during the Class Period, as
18 alleged above, class members frequently worked through their rest periods and were not
19 provided required breaks. Defendants did not schedule breaks, nor did they schedule
20 additional employees to provide relief for works like Plaintiffs to take required breaks.
21 Breaks, when provided were often late.

22 **64.** Defendants failed to pay the Class Members penalty wages for missed rest
23 periods. As a result of the aforementioned conduct, the Class Members have been
24 damaged according to proof at trial.

25 **65.** Defendants' failure to pay these wages entitles the Class Members to
26 additional wages, pursuant to § 226.7, which provides that if an employer fails to
27 provide an employee a rest period in accordance with an applicable order of the IWC,
28 the employer shall pay the employee one additional hour of pay at the employee's
regular rate of compensation for each work day that the rest period is not provided.

1 66. Plaintiffs allege on information and belief that Defendants' failure to pay the
2 Class Members the unpaid balance of these rest period wages upon the termination of
3 their employment, as alleged in this cause of action, was willful, and thus entitles the
4 Class Members to penalties under Labor Code § 203. Specifically, Labor Code § 203
5 provides that an employee's wages shall continue as a penalty until paid or for a period
6 of up to 30 days from the time they were due, whichever period is shorter.

7 67. Plaintiff will seek restitution pursuant to Labor Code §558(a)(3) for himself
8 and the proposed Class Members for each violation of Labor Code §226.7. Further, as a
9 derivative claim of failing to pay the premium pay of one (1) hour of pay at the
10 employee's regular rate of compensation for each workday that the meal period is not
11 provided, Plaintiff will seek statutory penalties under Labor Code §226(a)(1) because
12 the failure to pay such premium wages rendered the gross pay calculations inaccurate in
13 violation of Labor Code §226(e)(2)(B)(i). Plaintiff further seeks prejudgment interest,
14 reasonable costs of suit and reasonable attorney's fees as provided by the Labor Code
15 and Code of Civil Procedure §1021.5, or other applicable law. Pursuant to Labor Code
16 §2699(a) Plaintiffs seek to recover civil penalties for which Defendants are liable for
17 the Labor Code violation as set forth in the foregoing. Plaintiffs also seek attorneys'
18 fees and costs pursuant to Labor Code §2699(g)(1).

19
20 **FIFTH CAUSE OF ACTION**
21 **FAILURE TO PROVIDE SAFE WORKING CONDITIONS**
22 **California Labor Code sections 1198, 8 C.C.R. 3203, Wage Order 1**
23 **(Against Defendant for Safe Working Conditions Violations)**

24 68. Plaintiffs incorporates all preceding paragraphs as if set forth in full herein.

25 69. Wage Order 1 ¶15 requires: (A) The temperature maintained in each work area
26 shall provide reasonable comfort consistent with industry-wide standards for the nature
27 of the process and the work performed and, (B) If excessive heat or humidity is created
28 by the work process, the employer shall take all feasible means to reduce such
excessive heat or humidity to a degree providing reasonable comfort.

1 70. Upon information and belief, and at all relevant times herein, Defendants
2 required their employees, including Plaintiff and Class Members to consistently work in
3 temperatures far exceeding eighty (80) degrees Fahrenheit exposing both Plaintiff and
4 members of the Class to a high risk of suffering heat illness so that their life, safety, and
5 health were jeopardized by Defendants' conduct.

6 71. Defendant's facility did not have any climate control and would get unsafely
7 hot. Plaintiff, Class Members and Aggrieved Employees worked in unbearable heat in
8 the facility.

9 72. Labor Code 1198 makes it unlawful to employ employee in conditions
10 prohibited by the wage order.

11 73. Title 8 of the California Code of Regulations cover standards for indoor heat
12 exposure. Section 3203 requires that employers take the steps necessary to protect
13 employees' health and safety when the temperature exceeds 85 degrees in the
14 workplace.

15 74. Defendants' conduct as alleged herein violates California Code of Regulation,
16 Title 8, section 3203 and Labor Code sections 226.7 and 1198. Plaintiff and the Class
17 are therefore entitled to compensation and penalties as provided by law. Plaintiff seeks
18 all available remedies for Defendants' violations including, but not limited to any and
19 all wages due, penalties, monies, interest, attorneys' fees, and costs to the extent
20 permitted by law. Pursuant to Labor Code §2699(a) Plaintiffs seek to recover civil
21 penalties for which Defendants are liable for the Labor Code violation as set forth in the
22 foregoing. Plaintiffs also seek attorneys' fees and costs pursuant to Labor Code
23 §2699(g)(1).

24 **SIXTH CAUSE OF ACTION**
25 **LATE PAY AND WAITING TIME PENALTIES**
26 **Cal. Lab. Code §§201, 202, 203, 204, and 1199**
 (All Plaintiffs Against All Defendants)

27 75. Plaintiffs incorporates all preceding paragraphs as if set forth in full herein.
28

1 76. During the Class period, Labor Code Sections 201 and 202 applied to
2 Defendants' employment of Plaintiff and the Class. At all times relevant hereto, Labor
3 Code Section 201 provided that, if an employer such as Defendants discharged an
4 employee such as a member of the Class, the wages earned and unpaid at the time of
5 discharge were due and payable immediately. Furthermore, Labor Code Sections 202
6 provided that, if an employee such as a member of the Class voluntarily left his or her
7 employment, the wages earned and unpaid must be paid by the employer within
8 seventy-two (72) hours thereafter, unless the employee has given seventy-two (72)
9 hours previous notice of his or her intention to leave, in which case the employee is
10 entitled to receive his or her wages immediately at the time of quitting.

11 77. Plaintiff is informed and believes and, based thereon, alleges that, during the
12 Class period, Defendants willfully failed to pay former employees in the Class their
13 earned and unpaid wages, either at the time of their discharge or within seventy-two
14 (72) hours of their quitting. Furthermore, Defendants failed to pay Plaintiffs, on a
15 timely basis, all of the wages due them at the time of termination or quitting, including
16 overtime wages. Defendants therefore violated Labor Code Section 201 and 202.

17 78. As alleged above, by failing to pay for all hours worked by Plaintiffs and the
18 Class, Defendants underpaid the actual amount of regular hours worked by Plaintiffs
19 and the rest of the Class. These unpaid amounts were still owing to former employees
20 in the Class when they ended their employment with Defendants. Consequently,
21 Defendants failed to timely pay all wages due former employees in the Class at the time
22 that their employment ended.

23 79. During the Class Period, Labor Code Section 203 provided that, if employers
24 such as Defendants willfully fail to pay any wages of an employee who is discharged or
25 who quits, the wages of the employee shall continue as a penalty from the due date
26 thereof at the same rate until paid or until an action therefore is commenced, but the
27 wages shall not continue for more than thirty (30) days. Accordingly, Class Members
28 who were discharged or who quit during the Class Period are entitled to receive their

1 wages for each day they were not paid, at their regular rate of pay, up to a maximum of
2 thirty (30) days.

3 80. Defendants were required to pay Plaintiff and the Class Members all wages
4 earned twice during each calendar month pursuant to Labor Code §204(a). Defendants
5 failed to pay all wages earned to employees as a result of the unlawful employment
6 policies and practices discussed herein. As a result of these practices, employees were
7 underpaid for hours worked, including penalty wages, and this underpayment resulted
8 in a failure to pay all wages owed twice per month.

9 81. Plaintiff will seek both restitution pursuant to Labor Code §558(a)(3) for
10 himself and Class Members for each violation of Labor Code §203 during the Class
11 Period, in an amount according to proof based on Defendants' corporate and payroll
12 records. Pursuant to Labor Code §2699(a) Plaintiffs seek to recover civil penalties for
13 which Defendants are liable for the Labor Code violation as set forth in the foregoing.
14 Plaintiffs also seek attorneys' fees and costs pursuant to Labor Code §2699(g)(1).

15
16 **SEVENTH CAUSE OF ACTION**
17 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
18 **AND MAINTAIN ACCURATE RECORDS**
19 **Cal. Labor Code §§ 226, 1174, and 1199**
20 **(All Plaintiffs Against All Defendants)**

21 **82.** Plaintiffs incorporates all preceding paragraphs as if set forth in full herein.

22 83. California Labor Code § 226(a) provides that “[e]very employer shall,
23 semimonthly or at the time of each payment of wages, furnish each of his or her
24 employees...an accurate itemized statement in writing showing (1) gross wages earned,
25 (2) total hours worked..., (3) the number of piece-rate units earned and any applicable
26 piece rate if the employee is paid on a piece-rate basis, (4) all deductions ... , (5) net
27 wages earned, (6) the inclusive dates of period for which the employee is paid, (7) the
28 name of the employee and his or her social security number..., (8) the name and address
of the legal entity that is the employer, and (9) all applicable hourly rates in effect

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

3 84. Labor Code § 226(a) further provides that “[t]he deductions made from
4 payments of wages shall be recorded in ink or other indelible form, properly dated,
5 showing the month, day, and year, and a copy of the statement or a record of the
6 deductions shall be kept on file by the employer for at least three years at the place of
7 employment or at a central location within the State of California.”

8 85. Labor Code § 226(e) provides that “[a]n employee suffering injury as a result
9 of a knowing and intentional failure by an employer to comply with subdivision (a) is
10 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial
11 pay period in which a violation occurs and one hundred dollars (\$100) per employee for
12 each violation in a subsequent pay period, not exceeding an aggregate penalty of four
13 thousand dollars (\$4000), and is entitled to an award of costs and reasonable attorney's
14 fees.”

15 86. Labor Code § 1174 provides that “[e]very employer employing labor in this
16 state shall ... (c) [k]eep a record showing the names and addresses of all employees
17 employed and the ages of all minors [and] (d) [k]eep at a central location in the state or
18 at the plants or establishments at which employees are employed, payroll records
19 showing the hours worked daily by and the wages paid to, and the number of piece-rate
20 units earned by and any applicable piece rate paid to, employees employed at the
21 respective plants or establishments. These records shall be kept in accordance with rules
22 established for this purpose by the commission, but in any case shall be kept on file for
23 not less than two years.”

24 87. Labor Code § 1174.5 provides that “[a]ny person employing labor who
25 willfully fails to maintain the records required by subdivision (c) of Section 1174 or
26 accurate and complete records maintained by subdivision (d) of Section 1174, or to
27 allow any member of the commission or employees of the division to inspect records
28 pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five
hundred dollars (\$500).”

1 88. Plaintiffs allege on information and belief that Defendants knowingly and
2 intentionally failed to furnish Plaintiff and Class Members with accurate itemized
3 statements from time to time for each pay period that they worked, and frequently failed
4 to maintain accurate payroll records of the Class Members as mandated by Labor Code
5 §§ 226 and 1174. Inaccuracies in the wage statements and payroll records were caused,
6 among other reasons, by Defendants' unlawful timekeeping practices that resulted in
7 underreporting hours worked and overtime hours worked. Plaintiffs allege on
8 information and belief that as a result of Defendants' conduct, the Class Members
9 sustained damages. As such, the Class Members are entitled to civil penalties and an
10 award of costs and attorney's fees under § 226(e). In addition, the Class Members are
11 entitled to recover civil penalties under § 1174.5. Pursuant to Labor Code §2699(a)
12 Plaintiffs seek to recover civil penalties for which Defendants are liable for the Labor
13 Code violation as set forth in the foregoing. Plaintiffs also seek attorneys' fees and
14 costs pursuant to Labor Code §2699(g)(1).

15
16 **EIGHTH CAUSE OF ACTION**
17 **UNFAIR BUSINESS PRACTICES IN VIOLATION OF**
18 **California Business and Professions Code section 17200, et seq.**
19 **(All Plaintiffs Against All Defendants)**

20 **89.** Plaintiffs incorporates all preceding paragraphs as if set forth in full herein.

21 90. The unlawful timekeeping practices resulting in unpaid wages, unpaid
22 overtime, failure to provide required rest and cool down recovery breaks, failure to
23 provide safe working conditions and pay required business expenses, and failure to pay
24 wages as required twice per month and timely upon termination, constitute unlawful
25 and unfair business acts and/or practices within the meaning of Business and
26 Professions Code §17200 *et seq.*, including but not limited to violations of the
27 applicable State of California Industrial Welfare Commission Wage Orders, regulations
28 and statutes, or are practices which are otherwise unfair, deceptive and unlawful.

1 91. Indeed, Defendants' failure to pay the wages to Plaintiff and other aggrieved
2 employees as alleged above constitutes an unlawful, unfair or fraudulent business act or
3 practice, in violation of Business & Professions Code § 17200 et seq.

4 92. Pursuant to Business & Professions Code § 17203, the members of the UCL
5 Subclass are entitled to restitution of premium wages and other pay owed, including
6 penalty pay, where such wages were due during the Class Period, according to proof.

7 93. In addition, unless the Court imposes an injunction against Defendants
8 requiring Defendants to pay full wages in the future, Plaintiff and Class Members will
9 suffer immediate and irreparable harm and will have no adequate remedy at law.
10 Accordingly, the Class Members request that this Court enter a preliminary and
11 permanent injunction requiring Defendants to cease and desist from their unlawful
12 business practices and pay compensation as required by California law.

13 94. This cause of action is brought as a cumulative remedy as provided in
14 Business and Professions Code §17205, and is intended as an alternative remedy for
15 restitution for Plaintiff and members of the relevant subclasses for any portion of time
16 commencing from the first day following the end of the class period in *Agustin*
17 *Hernandez v. Personnel Staffing Group, LLC*, Case No. 30-2017-00899277-CU-OE-
18 CXC (Orange County Superior Court January 26, 2017) to the date the matter is
19 resolved.

20 95. Plaintiff, on behalf of himself and the proposed Class requests the violations of
21 each defendant be enjoined, and other equitable relief provided, as this court deems
22 proper, including an order requiring Defendants to make tax contributions on the
23 accrued wages in the form of FICA, Social Security, Medicare, Unemployment
24 Insurance or other applicable payments. Defendants' conduct, business acts and
25 practices undermined competition and was done in order to avoid costs other lawful
26 employers comply with in order to avoid payment of full compensation, ages and
27 statutory penalties owed.

28 96. Plaintiff and the Class Members request relief, as described below, including
restitution owed, in an amount according to proof, and for reasonable costs of suit and

1 reasonable attorney's fees as provided by the Labor Code and the Code of Civil
2 Procedure § 1021.5, or other applicable law.

4 **NINTH CAUSE OF ACTION**

5 **STATUTORY PENALITIES PURSUANT TO PRIVATE ATTORNEY** 6 **GENERAL ACT, LABOR CODE §2698 et seq. AGAINST ALL DEFENDANTS**

7 97. Plaintiffs incorporate by reference in this cause of action each allegation of the
8 preceding paragraphs as though fully set forth herein.

9 98. Under the Private Attorneys General Act of 2006, Labor Code §§2698-2699.5,
10 an aggrieved employee, on behalf of herself and other current or former employees,
11 may recover penalties under any provision of the Labor Code that provides for civil
12 penalties. These penalties are in addition to any other relief available under the Labor
13 Code. Plaintiff is an aggrieved employee under PAGA.

14 99. As set forth above, Defendants have committed numerous violations for which
15 the Labor Code provides for penalties, including violations of all applicable Labor Code
16 provisions set forth in the foregoing causes of action. Labor Code §2699.5 identifies the
17 aforementioned Labor Code provisions as statutes to which §2699.3's procedural
18 requirements must be met before a penalty may be assessed under §2699(f). Plaintiffs
19 have complied with the procedural requirements specified in §2699.3 by providing
20 written notice to the Defendants and the Labor & Workforce Development Agency
21 ("LWDA"). See Exhibit 1 attached hereto, which is a true and correct copy of the
22 Notice correspondence showing compliance with §2699.3. No notice of intent to
23 investigate the alleged violations was provided within the statutory period.
24 Consequently, Plaintiffs have exhausted administrative remedies, and on behalf of
25 themselves and all other aggrieved current and former employees of Defendants.
26 Plaintiffs, therefore, now pursue this cause of action as permitted by §2698, et seq.

27 100. Enforcement of statutory provisions enacted to protect workers and to ensure
28 proper and prompt payment of wages due to employees is a fundamental public interest

1 in California. Consequently, Plaintiff's success in this action will result in the
2 enforcement of important rights affecting the public interest and will confer a
3 significant benefit upon the general public. Private enforcement of the rights
4 enumerated herein is necessary, as no public agency has pursued enforcement. Plaintiff
5 is incurring a financial burden in pursuing this action and it would be against the interests
6 of justice to require payment of attorneys' fees and costs from any recover that might be
7 obtained herein, pursuant to, inter alia, Labor Code §§2698, *et seq.*, and Code of Civil
8 Procedure §1021.5

9 101. In addition, if Plaintiffs succeed in enforcing these rights affecting the public
10 interest, then attorneys' fees may be awarded to Plaintiffs and against Defendants under
11 Code of Civil Procedure §1021.5 and other applicable law in part, because:

12 **a.** A successful outcome in this action will result in the enforcement of
13 important rights affecting the public interest by requiring Defendants to comply with
14 the wage and hour laws and California's unfair business practice law;

15 **b.** This action will result in a significant benefit to Plaintiff, the Class, and the
16 general public by bringing to a halt unlawful and/or unfair activity;

17 **c.** Unless this action is prosecuted, members of the Class and general public
18 will not recover those moneys, and many of Defendants' employees would not be
19 aware that the acts and practices they were subjected to by Defendants were wrongful;

20 **d.** Unless this action is prosecuted, Defendants will continue to mislead their
21 employees about the true nature of their rights and remedies under the wage and hour
22 laws; and

23 **e.** An award of attorneys' fees and costs is necessary for the prosecution of
24 this action and will result in a benefit to Plaintiff, the Class, aggrieved employees, and
25 to consumers in general, by preventing Defendants from continuing to circumvent the
26 wage and hour statutes and frustrate the long-standing recognition by the California
27 legislature and the courts that such statutes, as pled herein, are not merely a matter of
28 private concern between employer and employee to be eviscerated by considerations of
waiver, contributory negligence, good or bad faith, and private agreements. Rather, the

1 wage and hour statutes have been described as a matter of public concern, were
2 designed to provide minimum substantive guarantees to individual workers and are
3 essential to public welfare.

4 **REQUEST FOR RELIEF**

5 That Plaintiff, Class Members, and aggrieved employees receive an award in the
6 amount of unpaid wages owed, including interest thereon, and penalties as follows:

7 For Causes of Action 1-8

- 8 1. That the Court determine that this action may be maintained as a class action under
9 Code of Civil Procedure § 382;
- 10 2. Provision of class notice to all members of the Class;
- 11 3. That Defendant is found to have violated the above-referenced provisions of the
12 Labor Code, CCR and IWC Wage Order 5-2001 as to Plaintiff, Class Members and
13 aggrieved employees;

14 For the First Cause of Action- Failure to Pay Wages:

- 15 1. For compensatory damages according to proof at trial;
- 16 2. For prejudgment interest, at the legal rate;
- 17 3. For penalties pursuant to Labor Code §§ 203, 510, 558;
- 18 4. For attorneys' fees;
- 19 5. For costs of suit incurred herein; and
- 20 6. For such other and further relief as the Court may deem appropriate.

21 For the Second Cause of Action- Failure to Pay Minimum Wage:

- 22 1. For compensatory damages according to proof at trial;
- 23 2. For prejudgment interest, at the legal rate;
- 24 3. For penalties pursuant to Labor Code §§ 203, 510, 558;
- 25 4. For attorneys' fees;
- 26 5. For costs of suit incurred herein; and
- 27 6. For such other and further relief as the Court may deem appropriate.

28 For the Third Cause of Action- Meal Period Violation:

1. For compensatory damages according to proof at trial;
2. For additional wages pursuant to Labor Code § 512, 226.7;
3. For penalties pursuant to Labor Code §§ 203 and 558;
4. For attorneys' fees;
5. For costs of suit incurred;
6. For prejudgment interest; and
7. For such other and further relief as the Court deems proper.

For the Fourth Cause of Action- Failure to Provide and/or Authorize Rest Breaks:

1. For compensatory damages according to proof at trial;
2. For additional wages pursuant to Labor Code § 226.7;
3. For penalties pursuant to Labor Code §§ 203 and 558;
4. For attorneys' fees;
5. For costs of suit incurred;
6. For prejudgment interest; and
7. For such other and further relief as the Court deems proper.

For the Fifth Cause of Action- Safety Conditions Violations:

1. For compensatory damages according to proof at trial;
2. For attorneys' fees;
3. For costs of suit incurred;
4. For prejudgment interest; and
5. For penalties and such other and further relief as the Court deems proper.

For the Sixth Cause of Action- Failure to Pay Wages Timely Upon Termination:

1. For compensatory damages according to proof at trial;
2. For the wages of each Class Member at their regular daily rate up to a maximum of thirty (30) days;
3. For penalties pursuant to Labor Code §§ 203 and 558;
4. For attorneys' fees pursuant to Labor Code §§ 218.5 and 226, and any other applicable statute;

- 1 5. For all costs of suit herein incurred;
- 2 6. For an award of interest, including prejudgment interest, as provided by law and
- 3 according to proof at trial; and
- 4 7. For such other relief, in law or in equity, as this Court deems just and proper.

5 For the Seventh Cause of Action- Inaccurate Payroll Records:

- 6 1. For compensatory damages according to proof at trial;
- 7 2. For penalties pursuant to Labor Code §§ 226 and 1174;
- 8 3. For attorneys' fees;
- 9 4. For costs of suit incurred;
- 10 5. For prejudgment interest; and
- 11 6. For such other and further relief as the Court deems proper.

12 For the Eighth Cause of Action- Unfair Business Practices:

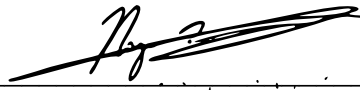
- 13 1. For a preliminary and permanent injunction requiring Defendants to (1) pay all
- 14 owed wages; (2) adopt a lawful timekeeping practice; (3) provide meal and rest
- 15 periods; (4) provide safe working conditions; and (5) provide and maintain
- 16 appropriate payroll records;
- 17 2. For compensatory damages according to proof at trial;
- 18 3. For attorneys' fees;
- 19 4. For costs of suit incurred;
- 20 5. For prejudgment interest; and
- 21 6. For such other and further relief as the Court deems proper.

22 For the Ninth Cause of Action- PAGA

- 23 1. For penalties pursuant to the Private Attorneys General Act, Labor Code §2698 et
- 24 seq.
- 25 2. For attorneys' fees;
- 26 3. For costs of suit incurred;
- 27 4. For such other and further relief as the Court deems proper.
- 28

1 DATED: April 14, 2021

KOUL LAW FIRM

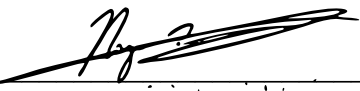
2
3 
4 BY: Nazo Koulloukian, Esq.
5 Attorneys for Plaintiff JESUS
6 GONZALEZ and putative class members
7

8 ***DEMAND FOR JURY TRIAL***

9 Plaintiff, on behalf of himself and the putative class, hereby demands trial by jury
10 to the full extent permitted by law.
11

12 DATED: April 14, 2021

KOUL LAW FIRM

13
14 
15 BY: Nazo Koulloukian, Esq.
16 Attorneys for Plaintiff JESUS
17 GONZALEZ and putative class members
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

January 22, 2021

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Gold Coast Bakeries, LLC
c/o William Dozier
1590 E. Saint Gertrude Place
Santa Ana CA 92705

Gold Coast Baking Company, Inc.
c/o William Dozier
1590 E. Saint Gertrude Place
Santa Ana CA 92705

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimant: Jesus Gonzalez
Employer: Gold Coast Bakeries, LLC
Gold Coast Baking Company, Inc.

Dear Sir or Madam:

Jesus Gonzalez (hereafter “Claimant”) has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM, and Sahag Majarian of Law Offices of Sahag Majarian II, to represent him, and all other aggrieved employees, for wage and hour claims against his employers, Gold Coast Bakeries, LLC, and Gold Coast Baking Company, Inc. (collectively “Employer”).

Employer operates bread baking facilities (www.goldcoastbakery.com) in Southern California where Claimant was employed until 5/21/2020.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Comply with California Law Concerning Payment of Lawful Wage For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§200, 207, 218, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*)

Section 2(H) of Wage Order 1 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.” When employers require employees who are already paid at or near minimum wage to undergo off the clock, pre-shift temperature checks, the result is that employees are underpaid for each pay period temperature checks take place. Moreover, Claimant and aggrieved employees have been underpaid as a result of Employer’s failure to always properly calculate wages and overtime for overnight shifts. Employer has violated Labor Code §§510 1194, 1198, 1199 and Wage Order 1. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2698 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Claimant and aggrieved employees were underpaid for hours worked, including penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

Failure to Pay Minimum Wage

(Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*)

Pursuant to Labor Code sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the applicable IWC Wage Order. Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of the practices described above. Employer’s failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 1-2001 4(B). Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Provide Timely, Uninterrupted Meal Breaks

(Cal. Labor Code §§226, 226.7, 512, 1199, 2698 *et seq.*)

During Claimant’s employment, Employer failed to maintain a compliant meal period policy and practice, failing to provide all its hourly employees with their right to take a timely, off-duty unpaid 30-minute meal period. Labor Code §512 provides, “[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes...”

Labor Code §226.7(a) provides, “[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission.” Wage Order 1 provides, in pertinent part, “[u]nless an employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.” Labor Code §1198 makes it unlawful for an employer to employ an employee for longer hours than those fixed by the wage order or under conditions of labor prohibited by the order.

Due to the press of work, and because the status of the bread in the oven was of the highest importance, Claimant and aggrieved employees frequently missed meals, took late meals, or had meals interrupted. At least twice per week, Claimant was instructed to clock out before the fifth hour of work, but to keep working. Additionally, because of the distance between the break room and the timeclock, employees spent significant unpaid time walking. When Claimant worked a shift over 10 hours, Employer did not permit a second meal period.

Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of work in violation of Labor Code §§226.7, 512, and 1198. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Safe Working Conditions

(Cal. Labor Code §1198, Wage Order 9 ¶15.)

Employer’s facility is located in Southern California, in a manufacturing facility that did not have sufficient climate control or air conditioning. Claimant and his coworkers worked in unbearable heat in the facility.

Wage Order 1 ¶15 requires:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

Labor Code 1198 makes it unlawful to employ employee in conditions prohibited by the wage order. By violating the wage order, Employer is liable for civil penalties pursuant to §2698 *et. seq.*

Failure to Provide Compliant Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 1198, 2698 et seq.,

8 CCR 3202, Wage Order 9 ¶15.))

Employer has failed to maintain a policy and practice that provides or permits its employees to take off-duty rest periods as required by California law. Employees are entitled to at least a ten minute rest period in which they are relieved of all duties, as required by Cal. Lab. Code §226.7, §512 and Wage Order 9.

Claimant and his coworkers did not receive the required 10 minute, uninterrupted breaks. Claimant and his coworkers were frequently denied breaks altogether because they were required to make sure the bread was baked properly. Employer did not schedule breaks, nor did Employer schedule additional employees to provide relief for workers like Claimant to take required breaks. Breaks, when provided, were often late.

Employer failed to pay Claimant and similarly situated employees all premium compensation (one hour of pay at the employee's regular rate of pay for missed or untimely rest periods) mandated by Labor Code §226.7 (b) for these missed and uncompliant rest periods. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required rest period penalties, thus failing the requirements of Labor Code §226(a) and §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Timely Pay All Wages Owed

(Cal. Lab. Code §§201, 202, 203, 1199 and 2698 et seq.)

Employer knowingly and willfully failed to pay all compensation due and owing to Claimant and aggrieved employees at the time employment terminated. Because of Employer's unlawful timekeeping practices, Claimant and employees were underpaid and those amounts remained due and owing when they separated from the company.

Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment within the time periods required by Cal. Lab. Code §§201 and 202. Pursuant to §§203, Claimant and similarly situated individuals are now also entitled to recover up to thirty (30) days of wages due to Employer's "willful" failure to comply with the statutory requirements of §§201 and 202 of the Labor Code. Moreover, because Employer violated §§201, 202 and 203, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Records

(Cal. Labor Code §§ 226, 1174, 1199 2699 et seq)

California Labor Code § 226(a) provides that "[e]very employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked..., (3) the number of

piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions ... , (5) net wages earned, (6) the inclusive dates of period for which the employee is paid, (7) the name of the employee and his or her social security number..., (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code § 1174 provides that “[e]very employer employing labor in this state shall ... (c) [k]eep a record showing the names and addresses of all employees employed and the ages of all minors [and] (d) [k]eep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.”

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and 1174. As a result of the unlawful employment practices discussed herein, the statements provided to Claimant and aggrieved employees have not accurately reflected actual gross wages earned, including overtime and meal/rest premiums and total regular and overtime hours worked.

Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled. Employer’s unlawful employment practices were knowing and intentional, and thus Employer knowingly and intentionally failed to itemize the gross wages earned, net wages earned, penalty pay, and total hours worked. Employer is liable for civil penalties pursuant to Labor Code § 2699 *et seq.*

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA’s provisions. Alternatively, Claimant requests that the agency inform him if it does not intend to investigate these violations so that he may pursue these claims as a representative action in civil court.

Sincerely,



Nazo Koulloukian, Esq.
Attorney for Claimant

cc: Sahag Majarian, Esq.

PROOF OF SERVICE

Case No. 30-2021-01184280-CU-OE-CXC
Gonzalez v. Gold Coast Bakeries, LLC, et al.

I, NAZO KOULLOUKIAN declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the entitled case. The name and address of my residence or business is KOUL LAW FIRM, 3435 Wilshire Blvd. Ste. 1710, Los Angeles, California 90010.

On April 14, 2021, I served the foregoing document described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

- X by placing the document(s) listed above in a sealed envelope, addressed as set forth below, and placing the envelope for collection and mailing in the place designated for such in our offices, following ordinary business practices.
- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00PM.
- by transmitting via electronic mail the document(s) listed above to the electronic mailing address set forth below on this date before 5:00PM.
- by causing a true copy thereof to be personally delivered to the person(s) at the address(es) set forth below.

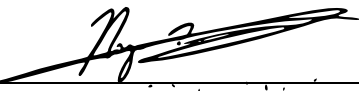
on the parties listed below by placing a true copy thereof enclosed in a sealed envelope for collection and mailing in the United States Postal Service following ordinary business practices at Los Angeles, California addressed as follows:

SEE ATTACHED SERVICE LIST

I am readily familiar with the ordinary practice of the business of collecting, processing and depositing correspondence in the United States Postal Service and that the correspondence will be deposited the same day with postage thereon fully prepaid.

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

Executed on this April 14, 2021, in Los Angeles, California.



Nazo Koulloukian

PROOF OF SERVICE

Case No. 30-2021-01184280-CU-OE-CXC
Gonzalez v. Gold Coast Bakeries, LLC, et al.

Defendant Gold Coast Baking Company, Inc. & Gold Coast Bakeries, LLC
c/o William Dozier
1590 E. Saint Gertrude Place
Santa Ana CA 92705