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FILED
Superior Court of California
County of Los Angeles

MAY 18 2021

She'ri R. Carter, Executive Officer/Clerk of Court
By C. Grijalva Deputy
Cristina Grijalva

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

BY FAX

MARIO CORDERO, individually, and on
behalf of other members of the general
public similarly situated,

Plaintiff,

vs.

SPIRE HOSPITALITY, LLC, a Delaware
limited liability company; AWH
BURBANK HOTEL, LLC, a Delaware
limited liability company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 20STCV49475

**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 §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code §§ 551, 552, and 558 (Failure to Provide One Day of Rest in Seven);
- (9) Violation of Labor Code § 1198 and California Code of Regulations Title 8,

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- § 11050 Subdivision 5(A) (Failure to Provide Reporting Time Pay);
- (10) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (11) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (13) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Mario Cordero, 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
3 employees, 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,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, 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
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice.

23 3. Venue is proper in this Court because Defendants employ persons in this
24 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
25 and occurrences related to this action occurred in this county.

26 THE PARTIES

27 4. Plaintiff MARIO CORDERO is a resident of Hacienda Heights, in Los Angeles
28 County, California. Defendants employed Plaintiff as an hourly paid, non-exempt Engineer

(Maintenance Technician) from approximately July 2015 to July 2020. Plaintiff worked for Defendants at their location in Burbank, California. During his employment, Plaintiff typically worked eight (8) hours or more per day, and five (5) or more days per week. Plaintiff's primary job duties included, without limitation, cleaning and maintaining swimming areas, responding to and completing maintenance requests, and attending to hotel guests.

5. SPIRE HOSPITALITY, LLC was and is, upon information and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America.

6. AWH BURBANK HOTEL, LLC was and is, upon information and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, or the various states of the United States of America.

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

8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of SPIRE HOSPITALITY, LLC and AWH BURBANK HOTEL, LLC, at all relevant times.

9. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, SPIRE HOSPITALITY, LLC; AWH BURBANK HOTEL, LLC; and/or DOES 1 through 10 (collectively, "Defendants" or "SPIRE"), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity with legal authority to act on the others' behalf. The acts of any and all Defendants were in

1 accordance with, and represent, the official policy of Defendants.

2 10. At all relevant times, Defendants, and each of them, ratified each and every act
3 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
4 and abetted the acts and omissions of each and all the other Defendants in proximately causing
5 the damages herein alleged.

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

9 12. Under California law, Defendants are jointly and severally liable as employers
10 for the violations alleged herein because they have each exercised sufficient control over the
11 wages, hours, working conditions, and employment status of Plaintiff and class members.
12 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
13 controlled their work schedule and/or conditions of employment, determined their rate of pay,
14 and maintained their employment records. Defendants suffered or permitted Plaintiff and
15 class members to work and/or “engaged” Plaintiff and class members so as to create a
16 common-law employment relationship. As joint employers of Plaintiff and class members,
17 Defendants are jointly and severally liable for the civil penalties and all other relief available
18 to Plaintiff and class members under the law.

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

22 (a) jointly exercised meaningful control over the work performed by
23 Plaintiff and class members;

24 (b) jointly exercised meaningful control over Plaintiff’s and class members’
25 wages, hours, and working conditions, including the quantity, quality
26 standards, speed, scheduling, and operative details of the tasks
27 performed by Plaintiff and class members;

28 (c) jointly required that Plaintiff and class members perform work which is

1 an integral part of Defendants' businesses; and

- 2 (d) jointly exercised control over Plaintiff and class members as a matter of
3 economic reality in that Plaintiff and class members were dependent on
4 Defendants, who shared the power to set the wages of Plaintiff and class
5 members and determined their working conditions, and who jointly
6 reaped the benefits from the underpayment of their wages and
7 noncompliance with other statutory provisions governing their
8 employment.

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

12 15. SPIRE HOSPITALITY, LLC; AWH BURBANK HOTEL, LLC; and/or DOES
13 1 through 10 are therefore alter egos of each other.

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

17 17. Plaintiff further alleges, upon information and belief, that Defendants SPIRE
18 HOSPITALITY, LLC and AWH BURBANK HOTEL, LLC are alter egos of each other for
19 the following reasons:

- 20 (a) On the AWH PARTNERS, LLC website
21 (<https://www.awhpartners.com>), SPIRE HOSPITALITY, LLC is listed
22 as a subsidiary of AWH PARTNERS, LLC;
23 (b) Based on the Statement of Information forms filed with the California
24 Secretary of State's website (<https://businesssearch.sos.ca.gov/>), SPIRE
25 HOSPITALITY, LLC and AWH BURBANK HOTEL, LLC share the
26 same street address of their California offices, "2500 Hollywood Way,
27 Burbank, CA 91505." This coincides with the location of the hotel Los
28

Angeles Marriott Burbank Airport¹ (where Plaintiff was employed), which is also listed on SPIRE HOSPITALITY, LLC's website²;

- (c) On the California Secretary of State's website (<https://businesssearch.sos.ca.gov/>), AWH BURBANK HOTEL, LLC shares the same entity address, "1040 AVENUE OF THE AMERICAS, 9TH FL, NEW YORK, NY 10018;"
- (d) Plaintiff Mario Cordero's final wages were provided through a CBC Bank USA check dated July 13, 2020 and drawn on the account of "AWH BURBANK HOTEL LLC;"
- (e) On information and belief, SPIRE HOSPITALITY, LLC and AWH BURBANK HOTEL, LLC share the same agent for service of process, UNITED CORPORATE SERVICES, INC (C1021866); and
- (f) On information and belief, SPIRE HOSPITALITY, LLC and AWH BURBANK HOTEL, LLC utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

18. Defendants are a hotel management company that operates at least 24 hotels across 10 brands throughout the United States. Upon information and belief, Defendants maintain a single, centralized Human Resources ("HR") department at their company headquarters in Irving, Texas, or New York City, New York, 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

¹ See Hotel in Burbank, CA | Los Angeles Marriott Burbank Airport, <https://www.marriott.com/hotels/travel/burap-los-angeles-marriott-burbank-airport/> (last accessed Dec. 24, 2020).

² See Portfolio | Spire Hospitality Hotels and Resorts, <https://www.spirehotels.com/hotel-portfolio/> (last accessed Dec. 24, 2020).

1 usage of standardized documents and/or written policies, including new-hire documents,
2 indicate that Defendants dictated policies at the corporate level and implemented them
3 company-wide, regardless of their employees' assigned locations or positions. Upon
4 information and belief, Defendants set forth uniform policies and procedures in several
5 documents provided at an employee's time of hire.

6 20. Upon information and belief, Defendants maintain a centralized Payroll
7 department at their company headquarters in Irving, Texas, or New York City, New York,
8 which processes payroll for all non-exempt, hourly paid employees working for Defendants at
9 their various locations and jobsites in California, including Plaintiff and class members.
10 Based upon information and belief, Defendants issue the same formatted wage statements to
11 all non-exempt, hourly paid employees in California, irrespective of their work locations.
12 Upon information and belief, Defendants process payroll for departing employees in the same
13 manner throughout the State of California, regardless of the manner in which each employee's
14 employment ends.

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

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

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

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

27 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to be paid at a regular rate

1 of pay, and corresponding overtime rate of pay, that included as eligible income all
2 remuneration required by law, including but not limited to, all income derived from incentive
3 pay, nondiscretionary bonuses, and/or other forms of compensation.

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

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

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

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

1 statements.

2 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that they had a duty to maintain accurate and complete payroll records in
4 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
5 and intentionally failed to do so.

6 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and class members were entitled to timely payment of all
8 wages earned upon termination of employment. In violation of the California Labor Code,
9 Plaintiff and class members did not receive payment of all wages due, including, but not
10 limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting
11 time pay, within permissible time periods.

12 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and class members were entitled to timely payment of wages
14 during their employment. In violation of the California Labor Code, Plaintiff and class
15 members did not receive payment of all wages, including, but not limited to, overtime wages,
16 minimum wages, meal and rest period premiums, and/or reporting time pay, within
17 permissible time periods.

18 33. Plaintiff is informed and believes, and thereon alleges, that at all time herein
19 mentioned, Defendants knew or should have known that they had a duty to cover the costs and
20 expenses Plaintiff and/or class members incurred obtaining mandatory examinations and/or
21 drug tests, but willfully, knowingly, and intentionally failed to do so.

22 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and class members were entitled to one day's rest in seven.
24 In violation of the California Labor Code, Defendants required Plaintiff and class members to
25 work more than six consecutive days without a day of rest, where the total hours worked
26 exceeded 30 hours in any week or six hours in any one day thereof.

27 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and class members were entitled to receive all reporting time

1 pay when Defendants required Plaintiff and class members were required to report to work but
2 were put to work for less than half of their regular scheduled shift. In violation of the
3 California Labor Code, Plaintiff and class members were not paid all reporting time pay.

4 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and/or class members were entitled to be paid a split-shift
6 premium when they returned to work for an additional shift in the same day, after having been
7 clocked out for more than an hour.

8 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and/or class members were entitled to suitable seating and/or
10 were entitled to sit when it did not interfere with the performance of their duties and also have
11 seats nearby to use during a lull in tasks that do require moving about or standing.

12 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and class members were entitled to receive full
14 reimbursement for all business-related expenses and costs they incurred during the course and
15 scope of their employment and that they did not receive full reimbursement of applicable
16 business-related expenses and costs incurred.

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

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

28 //

PAGA REPRESENTATIVE ALLEGATIONS

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

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

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

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

- (a) The aggrieved employee or representative shall give written notice by online filing with the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation.
- (b) An aggrieved employee’s notice filed with the LWDA pursuant to 2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).
- (c) The LWDA shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation (“LWDA’s Notice”) within sixty (60) calendar days of the postmark date of the aggrieved employee’s notice. Upon receipt of

1 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
2 (65) calendar days of the postmark date of the aggrieved employee's
3 notice, the aggrieved employee may commence a civil action pursuant
4 to California Labor Code section 2699 to recover civil penalties.

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

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

26 46. On January 19, 2021, Plaintiff provided written notice by online filing to the
27 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
28 Code alleged to have been violated, including facts and theories to support the alleged

1 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
2 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
3 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
4 Plaintiff PAGA Case Number LWDA-CM-819057-21. A true and correct copy of Plaintiff's
5 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

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

9 48. Thus, Plaintiff has satisfied the administrative prerequisites under California
10 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
11 violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510,
12 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

13 49. Labor Code section 558(a) provides "[a]ny employer or other person acting on
14 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
15 provision regulating hours and days of work in any order of the Industrial Welfare
16 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
17 dollars (\$50) for each underpaid employee for each pay period for which the employee was
18 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
19 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
20 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
21 to any other civil or criminal penalty provided by law."

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

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

28 Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),

1 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
2 private attorney general, seeks assessment and collection of civil penalties for himself, all
3 other aggrieved employees, and the State of California against Defendants for violations of
4 California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516,
5 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

6 **CLASS ACTION ALLEGATIONS**

7 52. Plaintiff brings this action on his own behalf, as well as on behalf of each and
8 all other persons similarly situated, and thus seeks class certification under California Code of
9 Civil Procedure section 382.

10 53. All claims alleged herein arise under California law for which Plaintiff seeks
11 relief authorized by California law.

12 54. Plaintiff's proposed class consists of and is defined as follows:

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

15 55. Plaintiff's proposed subclass consists of and is defined as follows:

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

19 56. Members of the Class and Subclass are referred to herein as "class members."

20 57. Plaintiff reserves the right to redefine the Class and Subclass and to add
21 additional subclasses as appropriate based on further investigation, discovery, and specific
22 theories of liability.

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

- 25 (a) Whether Defendants required Plaintiff and class members to work over
26 eight (8) hours per day, over twelve (12) hours per day, or over forty
27 (40) hours per week and failed to pay all legally required overtime
28 compensation to Plaintiff and class members;

- 1 (b) Whether Defendants failed to properly calculate the “regular rate” of
2 pay on which Plaintiff’s and class members’ overtime rate of pay was
3 based;
- 4 (c) Whether Defendants failed to pay Plaintiff and class members at least
5 minimum wages for all hours worked;
- 6 (d) Whether Defendants failed to provide Plaintiff and class members with
7 meal periods;
- 8 (e) Whether Defendants failed to authorize and permit Plaintiff and class
9 members to take rest periods;
- 10 (f) Whether Defendants provided Plaintiff and class members with
11 complete and accurate wage statements as required by California Labor
12 Code section 226(a);
- 13 (g) Whether Defendants maintained accurate payroll records as required by
14 California Labor Code section 1174(d);
- 15 (h) Whether Defendants failed to pay earned overtime wages, minimum
16 wages, meal and rest period premiums, and/or reporting time pay due to
17 Plaintiff and class members upon their discharge;
- 18 (i) Whether Defendants failed timely to pay overtime wages, minimum
19 wages, meal and rest period premiums, and/or reporting time pay due to
20 Plaintiff and class members during their employment;
- 21 (j) Whether Defendants failed to pay Plaintiff and/or class members for the
22 costs of mandatory physical examinations and/or drug testing;
- 23 (k) Whether Defendants failed to provide Plaintiff and class members one
24 day’s rest in seven;
- 25 (l) Whether Defendants required Plaintiff and class members to report to
26 work, but failed to provide them with work or provided them with less
27 than half their scheduled day’s work, without properly compensating
28 them as required by California Code of Regulations, Title 8, section

11050, subsection 5;

- (m) Whether Defendants required Plaintiff and/or class members to return to work for an additional shift in the same day, after having been clocked out for more than an hour, without paying Plaintiff and/or class members an addition hour of pay at the minimum wage as required by California Code of Regulations, Title 8, section 11050(4)(C);
- (n) Whether Defendants failed to provide Plaintiff and/or class members with suitable seating;
- (o) Whether Defendants failed to reimburse Plaintiff and class members for necessary and required business-related expenditures and/or losses incurred by them in the scope of their employment;
- (p) Whether Defendants failed to provide written notice of information material to Plaintiff's and class members' employment with Defendants;
- (q) Whether Defendants engaged in unlawful and unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*; and
- (r) The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

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

- (a) Numerosity: The class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than one hundred (100) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.
- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom he has a well-

1 defined community of interest, and Plaintiff's claims (or defenses, if
2 any) are typical of all class members as demonstrated herein.

3 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
4 protect the interests of each class member with whom he has a well-
5 defined community of interest and typicality of claims, as demonstrated
6 herein. Plaintiff acknowledges that he has an obligation to make known
7 to the Court any relationship, conflicts or differences with any class
8 member. Plaintiff's attorneys, the proposed class counsel, are versed in
9 the rules governing class action discovery, certification, and settlement.
10 Plaintiff has incurred, and throughout the duration of this action, will
11 continue to incur costs and attorneys' fees that have been, are, and will
12 be necessarily expended for the prosecution of this action for the
13 substantial benefit of each class member.

14 (d) Superiority: The nature of this action makes the use of class action
15 adjudication superior to other methods. A class action will achieve
16 economies of time, effort, and expense as compared with separate
17 lawsuits, and will avoid inconsistent outcomes because the same issues
18 can be adjudicated in the same manner and at the same time for the
19 entire class.

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

1 **FIRST CAUSE OF ACTION**

2 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

3 **(Against all Defendants)**

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

6 61. Labor Code section 1198 makes it illegal to employ an employee under
7 conditions of labor that are prohibited by the applicable wage order. California Labor Code
8 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
9 be the . . . standard conditions of labor for employees. The employment of any employee . . .
10 under conditions of labor prohibited by the order is unlawful.”

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

15 63. Specifically, the applicable IWC Wage Order provides that Defendants are and
16 were required to pay Plaintiff and class members working more than eight (8) hours in a day
17 or more than forty (40) hours in a workweek, at the rate of time and one-half (1½) for all
18 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
19 workweek.

20 64. The applicable IWC Wage Order further provides that Defendants are and were
21 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
22 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
23 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
24 employee, including nondiscretionary bonuses and incentive pay.

25 65. California Labor Code section 510 codifies the right to overtime compensation
26 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
27 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
28 seventh (7th) day of work, and to overtime compensation at twice the employee’s regular rate

1 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
2 in a day on the seventh (7th) day of work.

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

8 67. First, during the relevant period, Defendants had a company-wide “on-call”
9 policy, whereby they scheduled Plaintiff and other class members to work “on-call,” or on
10 standby. During an “on-call” shift, Plaintiff and class members had to be available and report
11 to work upon receiving a call from Defendants notifying them that they needed to come in and
12 work. When scheduled to be “on-call,” Plaintiff and class members were, in essence, on
13 controlled standby for Defendants because they could not use that time freely for their own
14 purposes and were forced to put their lives on hold. For example, Plaintiff refrained from
15 making plans altogether while “on-call” for a standby shift because he knew that he had to
16 drop whatever he was doing at a moment’s notice if he received a call from Defendants to
17 report to work. However, Defendants did not pay Plaintiff and class members for the time
18 during which they were waiting to receive a call from Defendants and unable to use their time
19 for their own purposes.

20 68. Second, during the relevant period, Defendants had a policy and/or practice of
21 discouraging and impeding Plaintiff and class members from recording hours worked that
22 were outside of their scheduled shifts, in order to limit the amount of overtime employees
23 could accrue. On information and belief, this policy of limiting overtime, coupled with
24 Defendants’ use of labor budgets and assignment of heavy workloads and stringent deadlines
25 (*see infra*), led Plaintiff and class members to work off-the-clock before and after their
26 scheduled shift times in order to complete their assigned tasks. For example, Plaintiff would
27 arrive to work early prior to the start of his scheduled shift to assist in preparing events for the
28 upcoming day. In addition, after clocking out at the end of his shift, Plaintiff was required to

1 continue performing maintenance requests, such as repairing plumbing on an as-needed basis.

2 69. Furthermore, in an effort to avoid paying Plaintiff and class members overtime
3 wages, on information and belief, Defendants had a policy and practice of denoting time
4 worked beyond an employee's regularly scheduled shift as "ADDIT" or "Additional" on
5 Plaintiff's and class members' wage statements, which was paid at a regular, hourly rate rather
6 than at an overtime rate. For example, Plaintiff would work beyond his scheduled shift
7 waiting for another employee to arrive and relieve him of his duties, but Defendants only paid
8 him his straight hourly rate, even though those hours worked sometimes qualified for overtime
9 pay. Thus, in this manner, Defendants intentionally limited the amount of overtime
10 employees could accrue.

11 70. Third, in conjunction with their policy of limiting overtime accrual, Defendants
12 had, and continue to have, a company-wide policy and/or practice of requiring employees to
13 complete work-related duties while off-the-clock, such as responding to communications from
14 their personal and company-issued devices, such as cellular phones. Upon information and
15 belief, Defendants required Plaintiff and class members to respond to calls on their personal
16 cellular phones from Defendants' management outside of their scheduled shifts, but did not
17 compensate them for this time. For example, Plaintiff was required to answer phone calls
18 from his supervisor on his off-days to discuss maintenance requests he had completed during
19 previous shifts, but was not compensated for this time worked.

20 71. Moreover, Defendants had, and continue to have, a policy and/or practice of
21 requiring that Plaintiff and class members carry a company-issued radio and mobile phone at
22 all times to respond to requests from management. Defendants' management contacted
23 Plaintiff and class members on their radios and mobile phones before and after their scheduled
24 shifts and during unpaid meal periods to instruct them to assist hotel guests and/or complete
25 service requests. Regardless of when Plaintiff and class members received these requests,
26 they were obligated to respond, upon threat of discipline, and were given a limited window of
27 time in which to fulfill these requests, in order to ensure guest satisfaction. For example, even
28 when Plaintiff received maintenance requests on his company-issued mobile phone before and

1 after his shifts or during unpaid meal periods, Defendants' management expected Plaintiff to
2 respond to and complete these requests within 30 minutes of receiving them. Defendants
3 knew or should have known that Plaintiff and class members were being made to respond to
4 management and complete tasks while off-the-clock in order to meet Defendants'
5 expectations, but failed to compensate them for this off-the-clock work.

6 72. Fourth, as stated above, Defendants had, and continue to have, a company-wide
7 policy and/or practice of strictly staffing their hotels based on the labor hours allocated by
8 corporate. Defendants' uniform use of labor budgets, combined with heavy workloads and
9 service request deadlines (*see supra*), resulted in chronic understaffing and a failure to provide
10 Plaintiff and class members with adequate meal period coverage, because there were too few
11 employees on duty to handle the workload and attend to guests. Defendants also had a
12 practice of failing to schedule meal periods, which further caused Plaintiff and class members
13 to not be relieved of their duties for compliant meal periods. As a result of this lack of meal
14 period coverage, Plaintiff and class members were not always afforded 30-minute meal
15 periods during shifts when they were entitled to receive a meal period. For example, Plaintiff
16 worked through his meal periods completing maintenance requests and attending to guests
17 because there were no other employees available to complete these duties.

18 73. Additionally, upon information and belief, because Defendants frowned upon
19 employees accruing meal period penalties, Defendants pressured Plaintiff and class members
20 to clock out for meal periods and/or adjusted employee time records to reflect compliant meal
21 periods, regardless of whether they had received a compliant meal period, in order to strictly
22 limit meal penalties that Defendants would otherwise owe. For example, Plaintiff was
23 instructed by his supervisor to sign a "Manual Entry Time Sheet" or "Punch Edit Form" to
24 record that he had received compliant meal periods on shifts when he had not, in fact, received
25 these meal periods. Thus, Plaintiff and class members performed work during meal periods
26 for which they were not paid. Additionally, due to the lack of meal period coverage,
27 Defendants required Plaintiff and class members to remain on or near the premises for their
28 meal periods. Because Plaintiff and class members were restricted from leaving the premises

1 during meal periods, they were denied the ability to use their meal periods freely for their own
2 purposes. Thus, Defendants effectively maintained control over Plaintiff and class members
3 during meal periods.

4 74. Defendants knew or should have known that as a result of these company-wide
5 practices and/or policies, Plaintiff and class members were performing their assigned duties
6 off-the-clock before and after their shifts and during meal periods, and were suffered or
7 permitted to perform work for which they were not paid. Because Plaintiff and class members
8 worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this
9 off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and class
10 members were not paid overtime wages for all of the overtime hours they actually worked.

11 75. Furthermore, Defendants did not pay Plaintiff and class members the correct
12 overtime rate for the recorded overtime hours that they generated. In addition to an hourly
13 wage, Defendants paid Plaintiff and class members incentive pay, nondiscretionary bonuses,
14 and/or other forms of remuneration. However, in violation of the California Labor Code,
15 Defendants failed to incorporate all compensation, including but not limited to, all incentive
16 pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
17 regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during
18 times when Plaintiff and class members worked overtime and received these other forms of
19 pay, Defendants failed to pay all overtime wages by paying a lower overtime rate than
20 required.

21 76. Specifically, Defendants paid Plaintiff and class members nondiscretionary
22 bonuses and incentive pay for meeting certain metrics. On information and belief, these
23 nondiscretionary bonuses were listed on Plaintiff's and class members' wage statements as
24 "INCEN" and "FRING." During pay periods that Plaintiff and class members were paid
25 overtime and double-time wages, Defendants failed to incorporate the nondiscretionary
26 bonuses and/or incentive pay into Plaintiff's and class members' regular rate of pay and, as a
27 result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically,
28 Defendants paid Plaintiff and class members 1.5 times their hourly rate of pay instead of 1.5

1 times their regular rate of pay. Defendants' failure to properly calculate the overtime and
2 double-time rates of pay based on all remuneration paid has resulted in an underpayment of
3 overtime and double-time wages to Plaintiff and class members on a company-wide basis.

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

9 **SECOND CAUSE OF ACTION**

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

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

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

22 80. As stated, Defendants systematically, and on a company-wide basis, required
23 Plaintiff and class members to work "on-call" shifts during which they had to put their lives
24 on hold and were restricted from using that time freely for their own purposes. Even though
25 Plaintiff and class members were subject to Defendants' control during an "on-call" shift,
26 Defendants did not pay Plaintiff and class members at least minimum wages for all hours that
27 they were suffered or permitted to work. Also, as stated above, during the relevant time
28 period, as a result of Defendants' policy of limiting the amount of overtime employees could

1 accrue, Plaintiff and class members were required to work off-the-clock before and after their
2 scheduled shift start and end times to complete assigned job duties. In addition, as set forth
3 above, Defendants required Plaintiff and class members to perform work off-the-clock,
4 answering phone calls from supervisors and responding to and completing requests from
5 management delivered over company-issued radios and mobile phones, but did not
6 compensate them for this time.

7 81. Moreover, as set forth above, due to Defendants' company-wide practice of
8 utilizing labor budgets, assigning heavy workloads and service request deadlines, failing to
9 schedule meal periods, requiring employees to stay on or near Defendants' premises during
10 meal periods, and subsequent lack of meal period coverage, Plaintiff and class members were
11 impeded from taking all uninterrupted meal periods to which they were entitled and were
12 required to work off-the-clock. Additionally, as set forth above, on information and belief,
13 Defendants systematically failed to pay Plaintiff and class members for actual hours worked
14 during unpaid meal periods, because these hours were not always correctly recorded.

15 82. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
16 and class members. To the extent that these off-the-clock hours did not qualify for overtime
17 premium payment, Defendants did not pay at least minimum wages for those hours worked
18 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
19 1198.

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

24 **THIRD CAUSE OF ACTION**

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

26 **Violations**

27 **(Against all Defendants)**

28 84. Plaintiff incorporates by reference and re-alleges as if fully stated herein each

1 and every allegation set forth above.

2 85. At all relevant times herein set forth, California Labor Code section 512(a)
3 provides that an employer may not require, cause, or permit an employee to work for a period
4 of more than five (5) hours per day without providing the employee with a meal period of not
5 less than thirty (30) minutes, except that if the total work period per day of the employee is
6 not more than six (6) hours, the meal period may be waived by mutual consent of both the
7 employer and the employee. Under California law, first meal periods must start after no more
8 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
9 2012).

10 86. At all relevant times herein set forth, California Labor Code sections 226.7,
11 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
12 meal period mandated by an applicable order of the IWC.

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

19 88. As stated, upon information and belief, Defendants had, and continue to have, a
20 company-wide policy and/or practice of understaffing their locations due to labor budgeting,
21 assigning heavy workloads and service request deadlines, and failing to schedule meal
22 periods, which has resulted in a lack of meal period coverage and prevented Plaintiff and class
23 members from taking all timely, uninterrupted meal periods to which they were entitled.
24 Additionally, as stated, Defendants had, and continue to have, a policy and/or practice of
25 requiring that Plaintiff and class members carry a company-issued radio and mobile phone to
26 respond to requests at all times, including during meal periods.

27 89. Furthermore, Defendants forced Plaintiff and class members to work through
28 their meal periods by requiring them to remain on or near the premises for their meal periods.

1 Because Plaintiff and class members were restricted from leaving the premises during meal
2 periods, they were denied the ability to use their meal periods freely for their own purposes.
3 Thus, Defendants effectively maintained control over Plaintiff and class members during meal
4 periods. Moreover, as stated, because Defendants frowned upon employees accruing meal
5 period penalties, Defendants' management would adjust Plaintiff's and class members' time
6 records and/or pressured employees to clock out for meal periods to reflect compliant meal
7 periods, regardless of whether they had received a compliant meal period, in order to strictly
8 limit meal penalties that would need to be paid by Defendants. For example, Plaintiff was
9 instructed by his supervisor to sign a "Manual Entry Time Sheet" or "Punch Edit Form" to
10 record that he had received compliant meal periods on shifts when he had not, in fact, received
11 these meal periods.

12 90. Defendants' practices and policies prevented Plaintiff and class members from
13 taking all compliant meal periods to which they were entitled. As a result, Plaintiff and class
14 members would be forced to work in excess of five (5) hours before taking a meal period and,
15 at times, had their meal periods interrupted and/or had to forgo their meal periods altogether.
16 For example, Plaintiff worked through his meal periods completing maintenance requests and
17 attending to guests because there were no other employees available to complete these duties.
18 As a further example, Plaintiff had his meal periods cut short and interrupted, or had to forego
19 his meal periods altogether to respond to maintenance requests from management on his
20 company-issued radio and mobile phone.

21 91. In addition, during the relevant time period, Defendants did not provide
22 Plaintiff and class members with second 30-minute meal periods on days that they worked in
23 excess of ten (10) hours in one day. For example, Plaintiff would work shifts in excess of ten
24 (10) hours per day, but was not provided second meal periods during these shifts. Plaintiff
25 and class members did not sign valid meal period waivers on days that they were entitled to
26 meal periods and were not relieved of all duties.

27 92. Moreover, Defendants had a company-wide policy of requiring all newly hired
28 employees to sign blanket meal period waivers at or near their time of hire. Defendants took

1 the position that non-exempt, hourly paid employees had waived their rights to second meal
2 periods for the entirety of their employment and, on that basis, did not provide them with all
3 second meal periods to which they were entitled. Specifically, Defendants' "Permanent Meal
4 Period Waiver for 2nd Meal Period on Workdays between 10 hours and 12 hours" form
5 provides that the waiver remains in effect until the employee provides his or her manager with
6 written notice of his or her decision to revoke using a form provided by Defendants: "I
7 understand I may revoke this waiver in writing . . . and that I should do so by using the
8 Cancellation of Meal Break Waiver Form provided by the hotel." Defendants' presumption
9 that second meal periods would not be provided for shifts in excess of ten (10) hours but less
10 than twelve (12) hours due to blanket meal period waivers, and imposition on employees to
11 revoke the waivers in writing using a particular form provided by Defendants, discouraged
12 and impeded class members from taking all second meal periods to which they were entitled.

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

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

22 premium pay.

23 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants
24 require employees to sign meal period waivers simultaneously at or near their time of hire (as
25 opposed to on a specific work day) renders them invalid and unenforceable, because
26 Defendants' obligation to provide Plaintiff and class members with meal periods did not arise
27 until Defendants had employed them for a full five (5) hours.

28 94. At all times herein mentioned, Defendants knew or should have known that, as
a result of these policies, Plaintiff and class members were prevented from being relieved of
all duties and required to perform some of their assigned duties during meal periods.

1 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
2 members meal period premiums when meal periods were late, interrupted, shortened, or
3 missed.

4 95. Furthermore, Defendants engaged in a company-wide practice and/or policy of
5 not paying all meal period premiums owed when compliant meal periods are not provided.
6 Because of this practice and/or policy, Plaintiff and class members have not received premium
7 pay for missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants
8 did pay Plaintiff and class members premium pay for missed, late, and interrupted meal
9 periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
10 premiums because Defendants systematically failed to include all forms of compensation,
11 such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the
12 regular rate of pay. As a result, Defendants failed to provide Plaintiff and class members
13 compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516
14 and failed to pay the full meal period premiums due.

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

19 **FOURTH CAUSE OF ACTION**

20 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 21 **(Against all Defendants)**

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

24 98. At all relevant times herein set forth, the applicable IWC Wage Order and
25 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
26 members' employment by Defendants.

27 99. At all relevant times, the applicable IWC Wage Order provides that "[e]very
28 employer shall authorize and permit all employees to take rest periods, which insofar as

1 practicable shall be in the middle of each work period” and that the “rest period time shall be
2 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
3 hours or major fraction thereof” unless the total daily work time is less than three and one-half
4 (3½) hours.

5 100. At all relevant times, California Labor Code section 226.7 provides that no
6 employer shall require an employee to work during any rest period mandated by an applicable
7 order of the California IWC. To comply with its obligation to authorize and permit rest
8 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
9 employer must “relinquish any control over how employees spend their break time, and
10 relieve their employees of all duties—including the obligation that an employee remain on
11 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
12 *Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and
13 California Labor Code section 226.7(c), Plaintiff and class members are entitled to recover
14 from Defendants one (1) additional hour of pay at their regular rates of pay for each work day
15 that a required rest period was not authorized and permitted.

16 101. First, during the relevant time period, Defendants regularly failed to authorize
17 and permit Plaintiff and class members to take a ten (10) minute rest period per each four (4)
18 hour period worked or major fraction thereof. As with meal periods, Defendants’ company-
19 wide practices, including utilizing labor budgets and assigning heavy workloads and service
20 request deadlines, prevented Plaintiff and class members from being relieved of all duty to
21 take rest periods. Additionally, Defendants failed to schedule rest periods, which, coupled
22 with Defendants’ failure to provide adequate rest period coverage, further led to Plaintiff and
23 class members not being authorized and permitted to take compliant rest periods.

24 102. Second, as stated, Defendants had, and continue to have, a policy and/or
25 practice of requiring that Plaintiff and class members carry a company-issued radio and
26 mobile phone to respond to requests at all times, including during rest periods. For example,
27 Plaintiff had his rest periods cut short and interrupted, or had to forego his rest periods
28 altogether to respond to maintenance requests on his company-issued radio and mobile phone.

1 103. Furthermore, during the relevant time period, Defendants maintained and
2 implemented a company-wide on-premises rest period policy, which mandated that Plaintiff
3 and class members remain on the work premises during their rest periods. Because Plaintiff
4 and class members were restricted from leaving the hotel premises during rest periods, they
5 were denied the ability to use their rest periods freely for their own purposes, such as running
6 personal errands. Thus, Defendants effectively maintained control over Plaintiff and class
7 members during rest periods.

8 104. As a result of Defendants' practices and policies, Plaintiff and class members
9 worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without
10 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
11 Plaintiff missed his rest periods in order to complete all of the work-related duties Defendants
12 assigned to him. Additionally, Plaintiff did not receive a third rest period when working shifts
13 in excess of 10 hours.

14 105. Defendants have also engaged in a company-wide practice and/or policy of not
15 paying all rest period premiums owed when compliant rest periods are not authorized and
16 permitted. Alternatively, to the extent that Defendants did pay Plaintiff and class members
17 one (1) additional hour of premium pay for missed rest periods, Defendants did not pay
18 Plaintiff and class members at the correct rate of pay for premiums because Defendants failed
19 to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or
20 other forms of remuneration, in the regular rate of pay. As a result, Defendants denied
21 Plaintiff and class members rest periods and failed to pay them rest period premiums due, in
22 violation of Labor Code sections 226.7, 516, and the applicable IWC Wage Order.

23 106. 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
27 permitted.

28 //

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)**

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

7 108. 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
10 address of the legal entity that is the employer, the inclusive dates of the pay period, total
11 hours worked, and all applicable rates of pay.

12 109. At all relevant times, Defendants have knowingly and intentionally provided
13 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
14 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members
15 that 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
17 the corresponding number of hours worked at each hourly rate. Specifically, Defendants
18 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

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

28 111. Additionally, because Defendants did not calculate Plaintiff's and Subclass

1 members' regular rate of pay correctly for purposes of paying overtime, Defendants did not
2 list the correct amount of gross wages earned by Plaintiff and Subclass members in
3 compliance with section 226(a)(1). For the same reason, Defendants failed to list the correct
4 amount of net wages earned by Plaintiff and Subclass members in violation of section
5 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during
6 the pay period, namely, correct overtime rates of pay and correct rates of pay for premiums, in
7 violation of section 226(a)(9).

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

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

1 Furthermore, in light of Defendants’ failure to provide Plaintiff and Subclass members with
2 second 30-minute meal periods to which they were entitled, Defendants kept no records of
3 meal start and end times for second meal periods.

4 114. California Labor Code section 1174(d) provides that “[e]very person employing
5 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
6 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
7 plants or establishments at which employees are employed, payroll records showing the hours
8 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
9 applicable piece rate paid to, employees employed at the respective plants or
10 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
11 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
12 members showing the daily hours they worked and the wages paid thereto as a result of failing
13 to record the off-the-clock hours that they worked.

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

18 **SIXTH CAUSE OF ACTION**

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

20 **Upon Termination**

21 **(Against all Defendants)**

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

24 117. This cause of action is dependent upon, and wholly derivative of, the overtime
25 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
26 not timely paid to Plaintiff and those class members no longer employed by Defendants upon
27 their termination.

28 118. At all times relevant herein set forth, Labor Code sections 201 and 202 provide

1 that if an employer discharges an employee, the wages earned and unpaid at the time of
2 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
3 her employment, his or her wages shall become due and payable not later than seventy-two
4 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
5 his or her intention to quit, in which case the employee is entitled to his or her wages at the
6 time of quitting.

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

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

18 SEVENTH CAUSE OF ACTION

19 Violation of California Labor Code § 204—Failure to Timely Pay Wages During

20 Employment

21 (Against all Defendants)

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

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

27 123. At all times relevant herein set forth, Labor Code section 204 provides that all
28 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)

1 days, inclusive, of any calendar month, other than those wages due upon termination of an
2 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
3 the month during which the labor was performed.

4 124. At all times relevant herein, Labor Code section 204 provides that all wages
5 earned by any person in any employment between the sixteenth (16th) and the last day,
6 inclusive, of any calendar month, other than those wages due upon termination of an
7 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
8 month.

9 125. At all times relevant herein, Labor Code section 204 provides that all wages
10 earned for labor in excess of the normal work period shall be paid no later than the payday for
11 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
12 204 provides that the requirements of this section are deemed satisfied by the payment of
13 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
14 seven (7) calendar days following the close of the payroll period.

15 126. During the relevant time period, Defendants willfully failed to pay Plaintiff and
16 class members all wages due including, but not limited to, overtime wages, minimum wages,
17 meal and rest period premiums, and/or reporting time pay within the time periods specified by
18 California Labor Code section 204.

19 127. Defendants' failure to pay Plaintiff and class members all wages due violates
20 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
21 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

22 **EIGHTH CAUSE OF ACTION**

23 **Violation of California Labor Code §§ 551, 552, and 558—Failure to Provide One Day's**

24 **Rest in Seven**

25 **(Against all Defendants)**

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

28 129. At all relevant times herein, California Labor Code section 551 provides that

every person employed in any occupation of labor is entitled to one day's rest in seven. Additionally, California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest.

130. At all relevant times herein set forth, California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

131. 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 "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law."

132. During the relevant time period, on information and belief, Defendants sometimes scheduled Plaintiff and class members to work eight (8) or more hours per day and more than six (6) consecutive days in a workweek. For example, most recently, Plaintiff was required to work 10 consecutive days from March 5, 2019, to March 14, 2019. Because Plaintiff and class members worked over 30 hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Plaintiff and class members may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

133. Thus, during the relevant time period, and in violation of Labor Code sections 551 and 552, Defendants willfully caused Plaintiff and class members to work more than six days in seven. Plaintiff and class members are therefore entitled to recover civil penalties pursuant to Labor Code section 558.

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1 **NINTH CAUSE OF ACTION**

2 **Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section**
3 **11050 Subdivision 5(A)—Failure to Provide Reporting Time Pay**
4 **(Against all Defendants)**

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

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

13 136. The applicable IWC wage order, California Code of Regulations, Title 8,
14 section 11050(5)(A), provides that “[e]ach workday an employee is required to report for
15 work and does report, but is not put to work or is furnished less than half said employee’s
16 usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled
17 day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the
18 employee’s regular rate of pay, which shall not be less than the minimum wage.”

19 137. During the relevant time period, Defendants violated California Labor Code
20 section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because
21 Defendants failed to pay Plaintiff and class members reporting time pay when they reported to
22 work for their scheduled shift but were put to work for less than half of the regularly
23 scheduled day’s work.

24 138. As described above, Defendants failed to pay Plaintiff and other class members
25 reporting time pay when they presented themselves as ready for work by waiting “on-call” and
26 awaiting instructions on whether to show up, but ultimately were not called. Defendants did
27 not pay Plaintiff and other class members for at least half of their scheduled day’s work when
28 they were subject to Defendants’ on-call policy and were not called or told not to come into

1 work. For example, Plaintiff waited at home during his scheduled “on-call” shifts as required
2 by Defendants’ on-call policy, but sometimes was not called or told that Defendants did not
3 need him to work. When this occurred, Defendants did not pay them for at least half of their
4 scheduled standby time or the required minimum reporting time pay.

5 139. Accordingly, Plaintiff and class members were not properly compensated with
6 reporting time pay in violation of California Labor Code section 1198.

7 **TENTH CAUSE OF ACTION**

8 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 9 **(Against all Defendants)**

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

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

23 142. First, during the relevant time period, Defendants had a company-wide policy
24 of requiring Plaintiff and class members to utilize their own personal vehicles to carry out
25 company business, such as obtaining maintenance supplies, but failed to reimburse them for
26 all costs of travel, including mileage. For example, Defendants required Plaintiff to drive his
27 personal vehicle to hardware stores to obtain plumbing components or other supplies because
28 Defendants failed to maintain their company truck in working condition. Although

1 Defendants required Plaintiff and class members use their own vehicles and complete these
2 tasks as part of their job duties, Defendants never reimbursed them for their travel expenses.

3 143. Second, during the relevant time period, Defendants, on a company-wide basis,
4 required Plaintiff and class members to report to work wearing clean uniforms, which forced
5 Plaintiff and class members to frequently wash their uniforms, and incur expenses for doing
6 so. Due to the nature of his work, Plaintiff's uniforms would become stained and/or acquire
7 an unpleasant odor, and Plaintiff would be required to wash these uniforms separately after his
8 shifts.

9 144. Third, during the relevant time period, Defendants had a company-wide policy
10 of requiring Plaintiff and class members to utilize their own personal cellular phones and
11 cellular data to carry out their job duties, but Defendants failed to reimburse them for the costs
12 of their work-related cellular phone expenses. Plaintiff and class members were required to
13 use their personal cellular phones to complete their work-related duties, such as answering
14 calls from management while scheduled for standby shifts and discussing work-related
15 matters with supervisors off-the-clock. For example, as stated, Defendants required Plaintiff
16 to respond to calls from his supervisor on his personal cellular phone to discuss maintenance
17 requests he had completed during his previous shifts. Although Defendants required Plaintiff
18 and class members to utilize their personal cellular phones to carry out their work-related
19 responsibilities, Defendants failed to reimburse them for this cost.

20 145. Defendants could have provided Plaintiff and class members with the actual
21 tools for use on the job, such as properly maintained company vehicles, access to laundering
22 services, and company phones. Or, Defendants could have reimbursed employees for the
23 costs of their mileage, travel, laundry, and cellular phone expenses. Instead, Defendants
24 passed these operating costs off onto Plaintiff and class members. At all relevant times,
25 Plaintiff did not earn at least two (2) times the minimum wage.

26 146. Defendants' company-wide policy and/or practice of passing on their operating
27 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
28 have intentionally and willfully failed to reimburse Plaintiff and other class members for

1 necessary business-related expenses and costs.

2 147. Plaintiff and class members are entitled to recover from Defendants their
3 business-related expenses incurred during the course and scope of their employment, plus
4 interest.

5 **ELEVENTH CAUSE OF ACTION**

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

7 **(Against all Defendants)**

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

10 149. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
11 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
12 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a),
13 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code
14 section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties
15 for violations of those Labor Code sections not found in section 2699.5, including sections
16 516, 1182.12, and 2810.5.

17 150. Defendants’ conduct, as alleged herein, violates numerous sections of the
18 California Labor Code, including, but not limited to, the following:

- 19 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
20 wage order for Defendants’ failure to compensate Plaintiff and other
21 aggrieved employees with all required overtime pay and failure to
22 properly calculate the overtime rates paid to Plaintiff and other
23 aggrieved employees, as alleged herein;
- 24 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198,
25 and the applicable IWC wage order for Defendants’ failure to
26 compensate Plaintiff and other aggrieved employees with at least
27 minimum wages for all hours worked, as alleged herein;
- 28 (c) Violation of Labor Code sections 226.7, 512(a), 516, 1198, and the

1 applicable IWC wage order for Defendants' failure to provide Plaintiff
2 and other aggrieved employees with meal periods, as alleged herein;

3 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
4 IWC wage order for Defendants' failure to authorize and permit
5 Plaintiff and other aggrieved employees to take rest periods, as alleged
6 herein;

7 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
8 wage order for failure to provide accurate and complete wage statements
9 to Plaintiff and other aggrieved employees, as alleged herein;

10 (f) Violation of Labor Code sections 1174(d), 1198, and the applicable
11 IWC wage order for failure to maintain payroll records, as alleged
12 herein;

13 (g) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
14 earned wages upon termination, as alleged herein;

15 (h) Violation of Labor Code section 204 for failure to pay all earned wages
16 during employment, as alleged herein;

17 (i) Violation of Labor Code section 222.5 for failure to compensate other
18 aggrieved employees for mandatory physical examinations and/or drug
19 testing as set forth below;

20 (j) Violation of Labor Code sections 551 and 552 for failure to provide one
21 day's rest in seven to other aggrieved employees, as alleged herein;

22 (k) Violation of Labor Code section 1198 and the applicable IWC wage
23 order for failure to pay reporting time pay when Plaintiff and other
24 aggrieved employees were put to work for less than half of their regular
25 scheduled shifts, as alleged herein;

26 (l) Violation of Labor Code section 1198 and the applicable IWC wage
27 order for failure to pay split-shift premiums when other aggrieved
28 employees returned to work for an additional shift in the same day, after

1 having been clocked out for more than an hour, as set forth below;

2 (m) Violation of Labor Code section 1198 for failing to provide suitable
3 seating to other aggrieved employees, as set forth below;

4 (n) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
5 and other aggrieved employees for all business expenses necessarily
6 incurred, as alleged herein; and

7 (o) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
8 provide written notice of information material to other aggrieved
9 employees' employment with Defendants, as set forth below.

10 151. At all relevant times herein, California Labor Code section 222.5 requires
11 employers to pay for the costs an employee incurs for obtaining any medical or physical
12 examination taken.

13 152. At all times relevant herein, Defendants implemented, on a company-wide
14 basis, an employer-imposed requirement that other aggrieved employees undergo mandatory
15 drug testing and/or physical examinations, but required them to do so at their own expense.
16 Defendants had a company-wide policy requiring that other aggrieved employees travel to a
17 specified medical facility using their own personal vehicles to undergo drug testing and/or
18 physical examinations. At all times, Defendants were in control of scheduling the date and
19 time for the testing and/or examinations, selecting the provider/facility where the testing
20 and/or examinations were to take place, and determining the scope of the testing and/or
21 examinations. However, Defendants did not compensate other aggrieved employees for the
22 time they spent traveling to and from the medical facilities; for the time they spent undergoing
23 the drug testing and/or physical examinations; or reimburse them for the travel expenses they
24 incurred getting to and from the medical facilities.

25 153. Defendants' policy and/or practice of not paying for all costs other aggrieved
26 employees incurred obtaining mandatory drug tests and/or physical examinations violates
27 California Labor Code section 222.5. Other aggrieved employees are therefore entitled to
28 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

1 154. California Labor Code section 1198 provides that no employer may employ an
2 employee under conditions of labor that are prohibited by the applicable IWC wage order.
3 California Labor Code section 1198 further requires that “. . . the standard conditions of labor
4 fixed by the commission shall be the . . . standard conditions of labor for employees. The
5 employment of any employee . . . under conditions of labor prohibited by the order is
6 unlawful.”

7 155. California Code of Regulations, Title 8, section 11050(4)(C) provides that,
8 “When an employee works a split shift, one (1) hour’s pay at the minimum wage shall be paid
9 in addition to the minimum wage for that workday, except when the employee resides at the
10 place of employment.” California Code of Regulations, Title 8, defines a split shift as “a
11 work schedule, which is interrupted by non-paid non-working periods established by the
12 employer, other than bona fide rest or meal periods.”

13 156. Defendants willfully violated California Labor Code section 1198 and
14 California Code of Regulations, Title 8, section 11050(4)(C), because Defendants failed to
15 pay other aggrieved employees a split-shift premium when they returned to work for an
16 additional shift in the same day, after having been clocked out for more than an hour. Other
17 aggrieved employees were required to report to work for their scheduled morning shifts, and
18 then return later to complete their scheduled evening or overnight shifts. When this occurred,
19 Defendants did not always pay other aggrieved employees an additional hour at minimum
20 wages. At all relevant times, other aggrieved employees did not reside at Defendants’
21 locations. Accordingly, Defendants required other aggrieved employees to work split shifts
22 but failed to pay them an additional hour at minimum wage, in violation of California Labor
23 Code section 1198.

24 157. Defendants’ failure to provide other aggrieved employees with split-shift pay
25 when they returned to work for an additional shift in the same day, after having been clocked
26 out for more than an hour, violates California Labor Code section 1198 and California Code
27 of Regulations Title 8, Section 11050(4)(C). Other aggrieved employees are therefore entitled
28 to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

1 158. At all relevant times herein, California Labor Code section 1198 makes it
2 illegal to employ an employee under conditions of labor that are prohibited by the applicable
3 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
4 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
5 The employment of any employee . . . under conditions of labor prohibited by the order is
6 unlawful.”

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

10 160. Plaintiff alleges that Defendants’ California hotels’ front desk, registration
11 desk, and concierge desk areas are generally similar in their layout and design and there was,
12 and continues to be, space behind the front desk, registration desk, and concierge desk areas to
13 allow for the presence and use of a seat or stool by other aggrieved employees (with
14 reasonable or no modification to these work areas) during the performance of their work
15 duties. Defendants could have provided other aggrieved employees with a seat or stool at
16 their front desks, registration desks, and concierge desks, but instead denied them seating and
17 forced other aggrieved employees to stand throughout the day.

18 161. Other aggrieved employees spent a substantial portion of their day behind the
19 front desks, registration desks, and concierge desks. The nature of the work of an employee
20 performing front desk, registration desk, and concierge duties can reasonably be accomplished
21 from a seated position. However, Defendants systematically, and on a company-wide basis,
22 did not provide seats or stools at or near the front desks, registration desks, or concierge desks,
23 forcing other aggrieved employees to stand throughout their work shifts.

24 162. During the relevant time period, Defendants violated California Labor Code
25 section 1198 and California Code of Regulations, Title 8, section 11050(14)(A), because other
26 aggrieved employees were not allowed to sit, even when it would not have interfered with the
27 performance of their duties. Other aggrieved employees were assigned front desk, registration
28 desk, and concierge duties, which were performed a front desk, registration desk, and

1 concierge desk, and could have been performed from a seated position. Other aggrieved
2 employees could have provided customer service at the front desks, registration desks, and
3 concierge desks while seated, without interference to their ability to complete these duties.

4 163. Defendants could have placed seats or stools at the front desks, registration
5 desks, and concierge desks for use by other aggrieved employees with reasonable or no
6 modification to these work areas. However, on a company-wide basis, Defendants did not
7 provide seats or stools at the front desks, registration desks, and concierge desks. Defendants'
8 management did not inform other aggrieved employees that they were allowed to sit down,
9 provide any feasible means for them to sit down, or mention any policy regarding sitting.

10 164. As a result of Defendants' company-wide policy and/or practice of prohibiting
11 employees from sitting during their shifts and company-wide failure to provide suitable
12 seating, other aggrieved employees were forced to stand during shifts and denied seats.
13 Defendants' failure to provide suitable seating to other aggrieved employees violated and
14 continues to violate California Labor Code section 1198 and IWC Wage Order 5-2001,
15 Section 14(A). Other aggrieved employees are therefore entitled to recover civil penalties
16 pursuant to Labor Code sections 2699(a), (f), and (g).

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

28 166. During the relevant time period, Defendants failed to provide other aggrieved

employees with written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure to provide other aggrieved employees with written notice of basic information regarding their employment with Defendants is in violation of Labor Code section 2810.5. Other aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

TWELFTH CAUSE OF ACTION

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

Unlawful Business Practices

(Against all Defendants)

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

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

169. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful 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' unlawful business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

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

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

- (a) Requiring non-exempt, hourly paid employees, including Plaintiff and class members, to work overtime without paying them proper compensation in violation of California Labor Code sections 510 and

1 1198 and the applicable IWC Order, and paying Plaintiff and class
2 members overtime at a lower rate than required by law by failing to
3 properly calculate the regular rate of pay for purposes of overtime, as
4 alleged herein;

5 (b) Failing to pay at least minimum wage to Plaintiff and class members in
6 violation of California Labor Code sections 1182.12, 1194, 1197,
7 1197.1, and 1198 and the applicable IWC Order, as alleged herein;

8 (c) Failing to provide uninterrupted meal periods to Plaintiff and class
9 members in violation of California Labor Code sections 226.7, 512(a),
10 516, 1198, and the applicable IWC Order, as alleged herein;

11 (d) Failing to authorize and permit Plaintiff and class members to take
12 uninterrupted rest periods in violation of California Labor Code sections
13 226.7, 516, 1198, and the applicable IWC Order, as alleged herein;

14 (e) Failing to provide Plaintiff and class members with accurate wage
15 statements and failing to maintain accurate payroll records in violation
16 of California Labor Code sections 226(a), 1174(d), 1198, and the
17 applicable IWC Order, as alleged herein;

18 (f) Failing timely to pay all earned wages to Plaintiff and class members in
19 violation of California Labor Code section 204 and the applicable IWC
20 Order, as alleged herein;

21 (g) Failing to provide one day's rest in seven to Plaintiff and class members
22 in violation of California Labor Code sections 551 and 552, as alleged
23 herein;

24 (h) Failing to pay reporting time pay in violation of California Labor Code
25 section 1198 and the applicable Industrial Welfare Commission Order,
26 as alleged herein;

27 (i) Failing to reimburse Plaintiff and class members for all business
28 expenses necessarily incurred in violation of California Labor Code

1 sections 2802, as alleged herein; and

2 (j) Failing to provide written notice of information material to Plaintiff's
3 and class members' employment with Defendants in violation of Labor
4 Code section 2810.5(a)(1)(A)-(C), as set forth below.

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

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

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

25 175. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
26 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
27 Defendants during a period that commences four years prior to the filing of this complaint; a
28 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and

1 class members; and an award of attorneys' fees pursuant to California Code of Civil
2 Procedure section 1021.5 and other applicable laws; and an award of costs.

3 **THIRTEENTH CAUSE OF ACTION**

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

5 **Unfair Business Practices**

6 **(Against all Defendants)**

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

9 177. Defendants are "persons" as defined by California Business & Professions
10 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
11 and/or associations.

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

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

28 180. A violation of California Business & Professions Code sections 17200, *et seq.*

1 may be predicated on any unfair business practice. In the instant case, Defendants' policies
2 and practices have violated the spirit of California's meal and rest period laws and constitute
3 acts against the public policy behind these laws.

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

11 **REQUEST FOR JURY TRIAL**

12 Plaintiff requests a trial by jury.

13 **PRAYER FOR RELIEF**

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

16 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
17 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
18 reserves the right to amend his prayer for relief to seek a different amount.

19 **Class Certification**

- 20 2. That this case be certified as a class action;
21 3. That Plaintiff be appointed as the representative of the Class and Subclass;
22 4. That counsel for Plaintiff be appointed as class counsel.

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

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

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

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

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

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

As to the Second Cause of Action

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

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

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

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

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

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

As to the Third Cause of Action

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

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

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

- 1 19. For premiums pursuant to California Labor Code section 226.7(c);
- 2 20. For pre-judgment interest on any unpaid meal period premiums from the date
- 3 such amounts were due, or as otherwise provided by law;
- 4 21. For attorneys' fees pursuant to California Code of Civil Procedure section
- 5 1021.5, or as otherwise provided by law; and
- 6 22. For such other and further relief as the Court may deem equitable and
- 7 appropriate.

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

- 9 23. That the Court declare, adjudge and decree that Defendants violated California
- 10 Labor Code sections 226.7, 516, and 1198 and applicable IWC Wage Orders by willfully
- 11 failing to authorize and permit Plaintiff and class members to take all rest periods;
- 12 24. That the Court make an award to the Plaintiff and class members of one (1) hour
- 13 of pay at each employee's regular rate of pay for each workday that a rest period was not
- 14 authorized and permitted;
- 15 25. For all actual, consequential, and incidental losses and damages, according to
- 16 proof;
- 17 26. For premiums pursuant to California Labor Code section 226.7(c);
- 18 27. For pre-judgment interest on any unpaid rest period premiums from the date
- 19 such amounts were due, or as otherwise provided by law;
- 20 28. For attorneys' fees pursuant to California Code of Civil Procedure section
- 21 1021.5, or as otherwise provided by law; and
- 22 29. For such other and further relief as the Court may deem equitable and
- 23 appropriate.

24 **As to the Fifth Cause of Action**

- 25 30. That the Court declare, adjudge and decree that Defendants violated the
- 26 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage
- 27 Orders as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized
- 28 wage statements thereto;

1 31. For all actual, consequential, and incidental losses and damages, according to
2 proof;

3 32. For injunctive relief pursuant to California Labor Code section 226(h);

4 33. For statutory penalties pursuant to California Labor Code section 226(e);

5 34. For attorneys' fees and costs pursuant to California Labor Code section
6 226(e)(1); and

7 35. For such other and further relief as the Court may deem equitable and
8 appropriate.

9 **As to the Sixth Cause of Action**

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

14 37. For all actual, consequential and incidental losses and damages, according to
15 proof;

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

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

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

22 41. For such other and further relief as the Court may deem equitable and
23 appropriate.

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

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

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

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

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

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

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

As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 551 and 552 by failing to provide a day's rest in seven, and that Defendants committed said violations of the Labor Code against Plaintiff and class members;

49. For civil penalties for conduct occurring any time between one year prior to the filing of this complaint and judgment, pursuant to California Labor Code section 558;

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

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

As to the Ninth Cause of Action

52. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A) by failing to provide Plaintiff and class members with reporting time pay;

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

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

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

1 appropriate.

2 **As to the Tenth Cause of Action**

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

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

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

10 59. For all actual, consequential, and incidental losses and damages, according to
11 proof;

12 60. For attorneys' fees and costs pursuant to California Labor Code section
13 2802(c), or as otherwise provided by law; and

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

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

17 62. That the Court declare, adjudge and decree that Defendants violated the
18 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
19 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and
20 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
21 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
22 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
23 statements and maintain accurate payroll records); 201, 202, and 203 (by failing timely to pay
24 all earned wages upon termination); 204 (by failing timely to pay all earned wages during
25 employment); 222.5 (by failing to pay the costs of mandatory drug testing and/or physical
26 examinations); 551 and 552 (by failing to provide one day's rest in seven); 1198 (by failing to
27 provide reporting time pay); 1198 (by failing to pay split-shift premiums); 1198 (by failing to
28 provide suitable seating); 2802 (by failing to reimburse business expenses); and 2810.5 (by

1 failing to provide written notice of information material to employment);

2 63. For civil penalties pursuant to California Labor Code sections 210, 226.3, 256,
3 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor Code
4 sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d),
5 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

6 64. For attorneys' fees and costs pursuant to California Labor Code section
7 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California
8 Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 450, 510, 512(a), 516, 551,
9 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

10 65. For pre-judgment and post-judgment interest as provided by law; and

11 66. For such other and further relief as the Court may deem equitable and
12 appropriate.

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

14 67. That the Court declare, adjudge and decree that Defendants' conduct of failing
15 to provide Plaintiff and class members all overtime wages due to them, failing to provide
16 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
17 class members all meal periods, failing to authorize and permit Plaintiff and class members to
18 take all rest periods, failing to provide Plaintiff and class members accurate and complete
19 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,
20 failing timely to pay Plaintiff and class members all earned wages during employment, failing
21 to provide one day's rest in seven, failing to pay Plaintiff and class members reporting time
22 pay, failing to reimburse Plaintiff and class members for business-related expenses, and
23 failing to provide written notice of information material to employment, constitutes an
24 unlawful business practice in violation of California Business and Professions Code sections
25 17200, *et seq.*;

26 68. For restitution of unpaid wages to Plaintiff and all class members and
27 prejudgment interest from the day such amounts were due and payable;

28 69. For the appointment of a receiver to receive, manage and distribute any and all

1 funds disgorged from Defendants and determined to have been wrongfully acquired by
2 Defendants as a result of violations of California Business & Professions Code sections
3 17200, *et seq.*;

4 70. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
5 California Code of Civil Procedure section 1021.5; and

6 71. For such other and further relief as the Court may deem equitable and
7 appropriate.

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

9 72. That the Court declare, adjudge and decree that Defendants' conduct of denying
10 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
11 an unfair business practice in violation of California Business and Professions Code sections
12 17200, *et seq.*;

13 73. For restitution of the statutory benefits under section 226.7 unfairly withheld
14 from Plaintiff and class members and prejudgment interest from the day such amounts were
15 due and payable;

16 74. For the appointment of a receiver to receive, manage and distribute any and all
17 funds disgorged from Defendants and determined to have been wrongfully acquired by
18 Defendants as a result of violations of California Business & Professions Code sections
19 17200, *et seq.*;

20 75. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
21 California Code of Civil Procedure section 1021.5;

22 76. For pre-judgment and post-judgment interest as provided by law; and

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

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Dated: May 18, 2021

Respectfully submitted,

Capstone Law APC

By: 
Robert Drexler
Molly DeSario
Jonathan Lee

Attorneys for Plaintiff Mario Cordero

Exhibit 1



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Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

January 19, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Mario Cordero v. Spire Hospitality, LLC, et al.*

Dear PAGA Administrator:

This office represents Mario Cordero in connection with his claims under the California Labor Code. Mr. Cordero was an employee of SPIRE HOSPITALITY, LLC; AWH BURBANK HOTEL, LLC; AWH BURBANK HOTEL II, LLC; and/or AWH PARTNERS, LLC. For the purpose of this letter, Mr. Cordero collectively refers to these entities as "SPIRE."

The employers may be contacted directly at the addresses below:

SPIRE HOSPITALITY, LLC
4600 FULLER DRIVE, SUITE 100
IRVING TX 75038

AWH BURBANK HOTEL, LLC
1040 AVENUE OF THE AMERICAS 9TH FL
NEW YORK NY 10018

AWH BURBANK HOTEL, LLC
111 S PFINGSTEN RD STE 425
DEERFIELD IL 60015

AWH BURBANK HOTEL II, LLC
1040 AVENUE OF THE AMERICAS, 9TH FL
NEW YORK NY 10018

AWH PARTNERS, LLC
AWH BURBANK HOTEL II, LLC
1040 AVENUE OF THE AMERICAS, 9TH FL
NEW YORK NY 10018

Mr. Cordero intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Cordero seeks relief on behalf of himself, the State of California, and other persons who are or were employed by SPIRE 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.

SPIRE employed Mr. Cordero as an hourly paid, non-exempt employee from approximately July 2015 to July 2020. Mr. Cordero worked for SPIRE as an Engineer (Maintenance Technician) at the Los Angeles Marriott Burbank Airport, located at 2500 Hollywood Way, Burbank, California 91505. During his employment, Mr. Cordero typically worked eight (8) hours or more per day, and five (5) or more days per week. At the time Mr. Cordero's employment with SPIRE ended, he earned approximately \$17.87 per hour. His job duties included, without limitation, cleaning and maintaining swimming areas, responding to and completing maintenance requests, and attending to hotel guests.

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

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

SPIRE HOSPITALITY, LLC; AWH BURBANK HOTEL, LLC; AWH BURBANK HOTEL II, LLC; and/or AWH PARTNERS, LLC are Delaware limited liability companies. SPIRE is a hotel management company that operates at least 24 hotels across 10 brands throughout the United States, including at least one (1) hotel location in California, Los Angeles Marriott Burbank Airport. Upon information and belief, SPIRE maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Irving, Texas, or New York City, New York, for all non-exempt, hourly paid employees working for SPIRE in California, including Mr. Cordero and other aggrieved employees. At all relevant times, SPIRE issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Cordero and other aggrieved employees, regardless of their location or position.

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

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

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.

SPIRE willfully failed to pay all overtime wages owed to Mr. Cordero and other aggrieved employees. During the relevant time period, Mr. Cordero and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, SPIRE had a company-wide "on-call" policy, whereby it scheduled Mr. Cordero and other aggrieved employees to work "on-call," or on standby. During an "on-call" shift, Mr. Cordero and other aggrieved employees had to be available and report to work upon receiving a call from SPIRE notifying them that they needed to come in and work. When scheduled to be "on-call," Mr. Cordero and other aggrieved employees were, in essence, on controlled standby for SPIRE because they could not use that time freely for their own purposes and were forced to put their lives on hold. For example, Mr. Cordero refrained from making plans altogether while "on-call" for a standby shift because he knew that he had to drop whatever he was doing at a moment's notice if he received a call from SPIRE to report to work. However, SPIRE did not pay Mr. Cordero and other aggrieved employees for the time during which they were waiting to receive a call from SPIRE and unable to use their time for their own purposes.

Second, during the relevant period, SPIRE had a policy and/or practice of discouraging and impeding Mr. Cordero and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with SPIRE's use of labor budgets and assignment of heavy workloads and stringent deadlines (*see infra*), led Mr. Cordero and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. For example, Mr. Cordero would arrive to work early prior to the start of his scheduled shift to assist in preparing events for the upcoming day. In addition, after clocking out at the end of his shift, Mr. Cordero was required to continue performing maintenance requests, such as repairing plumbing on an as-needed basis.

Furthermore, in an effort to avoid paying Mr. Cordero and other aggrieved employees overtime wages, on information and belief, SPIRE had a policy and practice of denoting time worked beyond an employee's regularly scheduled shift as "ADDIT" or "Additional" on Mr. Cordero's and other aggrieved employees' wage statements, which was paid at a regular, hourly rate rather than at an overtime rate. For example, Mr. Cordero would work beyond his scheduled shift waiting for another employee to arrive and relieve him of his duties, but SPIRE only paid him his straight hourly rate, even though those hours worked sometimes qualified for overtime pay. Thus, in this manner, SPIRE intentionally limited the amount of overtime employees could accrue.

Third, in conjunction with their policy of limiting overtime accrual, SPIRE had, and continues to have, a company-wide policy and/or practice of requiring employees to complete work-related duties while off-the-clock, such as responding to communications from their personal and company-issued devices, such as cellular phones. Upon information and belief, SPIRE required Mr. Cordero and other aggrieved employees to respond to calls on their personal cellular phones from SPIRE's management outside of their scheduled shifts, but did not compensate them for this time. For

example, Mr. Cordero was required to answer phone calls from his supervisor on his off-days to discuss maintenance requests he had completed during previous shifts, but was not compensated for this time worked.

Moreover, SPIRE had, and continues to have, a policy and/or practice of requiring that Mr. Cordero and other aggrieved employees carry a company-issued radio and mobile phone at all times to respond to requests from management. SPIRE's management contacted Mr. Cordero and other aggrieved employees on their radios and mobile phones before and after their scheduled shifts and during unpaid meal periods to instruct them to assist hotel guests and/or complete service requests. Regardless of when Mr. Cordero and other aggrieved employees received these requests, they were obligated to respond, upon threat of discipline, and were given a limited window of time in which to fulfill these requests, in order to ensure guest satisfaction. For example, even when Mr. Cordero received maintenance requests on his company-issued mobile phone before and after his shifts or during unpaid meal periods, SPIRE's management expected Mr. Cordero to respond to and complete these requests within 30 minutes of receiving them. SPIRE knew or should have known that Mr. Cordero and other aggrieved employees were being made to respond to management and complete tasks while off-the-clock in order to meet SPIRE's expectations, but failed to compensate them for this off-the-clock work.

Fourth, as stated above, SPIRE had, and continues to have, a company-wide policy and/or practice of strictly staffing its hotels based on the labor hours allocated by corporate. SPIRE's uniform use of labor budgets, combined with heavy workloads and service request deadlines (*see supra*), resulted in chronic understaffing and a failure to provide Mr. Cordero and other aggrieved employees with adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to guests. SPIRE also had a practice of failing to schedule meal periods, which further caused Mr. Cordero and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this lack of meal period coverage, Mr. Cordero and other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Mr. Cordero worked through his meal periods completing maintenance requests and attending to guests because there were no other employees available to complete these duties.

Additionally, upon information and belief, because SPIRE frowned upon employees accruing meal period penalties, SPIRE pressured Mr. Cordero and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that SPIRE would otherwise owe. For example, Mr. Cordero was instructed by his supervisor to sign a "Manual Entry Time Sheet" or "Punch Edit Form" to record that he had received compliant meal periods on shifts when he had not, in fact, received these meal periods. Thus, Mr. Cordero and other aggrieved employees performed work during meal periods for which they were not paid. Additionally, due to the lack of meal period coverage, SPIRE required Mr. Cordero and other aggrieved employees to remain on or near the premises for their meal periods. Because Mr. Cordero and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, SPIRE effectively maintained control over Mr. Cordero and other aggrieved employees during meal periods.

SPIRE knew or should have known that as a result of these company-wide practices and/or policies, Mr. Cordero and other aggrieved employees were performing their assigned duties off-the-clock and during meal periods, and were suffered or permitted to perform work for which they were not paid.

Because Mr. Cordero and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Cordero and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198.

Furthermore, SPIRE did not pay Mr. Cordero and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, SPIRE paid Mr. Cordero and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, SPIRE 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 Mr. Cordero and other aggrieved employees worked overtime and received these other forms of pay, SPIRE failed to pay all overtime wages by paying a lower overtime rate than required.

Specifically, SPIRE paid Mr. Cordero and other aggrieved employees nondiscretionary bonuses and incentive pay for meeting certain metrics. On information and belief, these nondiscretionary bonuses were listed on Mr. Cordero's and other aggrieved employees' wage statements as "INCEN" and "FRING." During pay periods that Mr. Cordero and other aggrieved employees were paid overtime and double-time wages, SPIRE failed to incorporate the nondiscretionary bonuses and/or incentive pay into Mr. Cordero's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, SPIRE paid Mr. Cordero and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. SPIRE's failure to properly calculate the overtime and double-time rates of pay based on all remuneration paid has resulted in an underpayment of overtime and double-time wages to Mr. Cordero and other aggrieved employees on a company-wide basis.

Mr. Cordero 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 stated, SPIRE systematically, and on a company-wide basis, required Mr. Cordero and other aggrieved employees to work "on-call" shifts during which they had to put their lives on hold and were restricted from using that time freely for their own purposes. Even though Mr. Cordero and other aggrieved employees were subject to SPIRE's control during an "on-call" shift, SPIRE did not pay Mr. Cordero and other aggrieved employees at least minimum wages for all hours that they were suffered or permitted to work. Also, as stated above, during the relevant time period, as a result of SPIRE'S policy of limiting the amount of overtime employees could accrue, Mr. Cordero and other aggrieved employees were required to work off-the-clock before and after their scheduled shift start

and end times to complete assigned job duties. In addition, as set forth above, SPIRE required Mr. Cordero and other aggrieved employees to perform work off-the-clock, answering phone calls from supervisors and responding to and completing requests from management delivered over company-issued radios and mobile phones, but did not compensate them for this time.

Moreover, as set forth above, due to SPIRE's company-wide practice of utilizing labor budgets, assigning heavy workloads and service request deadlines, failing to schedule meal periods, requiring employees to stay on or near SPIRE's premises during meal periods, and subsequent lack of meal period coverage, Mr. Cordero 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. Additionally, as set forth above, on information and belief, SPIRE systematically failed to pay Mr. Cordero and other aggrieved employees for actual hours worked during unpaid meal periods, because these hours were not always correctly recorded.

Furthermore, on information and belief, SPIRE maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory drug testing and/or physical examinations. At all times, SPIRE was in control of scheduling the time period for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. On information and belief, SPIRE gave other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or examinations for the sole benefit of SPIRE. Other aggrieved employees were required to travel in their personal vehicles or obtain alternate transportation and spend time undergoing the requisite testing and/or examinations. However, SPIRE did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and for the time they spent undergoing the mandatory drug testing and/or physical examinations.

Thus, SPIRE 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, SPIRE 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, SPIRE regularly failed to pay at least minimum wages to Mr. Cordero and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198.

Mr. Cordero 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, SPIRE had, and continues to have, a company-wide policy and/or practice of understaffing its locations due to labor budgeting, assigning heavy workloads and service request deadlines, and failing to schedule meal periods, which has resulted in a lack of meal period coverage and prevented Mr. Cordero and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally, as stated, SPIRE had, and continues to have, a policy and/or practice of requiring that Mr. Cordero and other aggrieved employees carry a company-issued radio and mobile phone to respond to requests at all times, including during meal periods.

Furthermore, as stated, SPIRE forced Mr. Cordero and other aggrieved employees to work through their meal periods by requiring them to remain on or near the premises for their meal periods. Because Mr. Cordero and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, SPIRE effectively maintained control over Mr. Cordero and other aggrieved employees during meal periods. Moreover, as stated, because SPIRE frowned upon employees accruing meal period penalties, SPIRE's management would adjust Mr. Cordero'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, in order to strictly limit meal penalties that would need to be paid by SPIRE. For example, Mr. Cordero was instructed by his supervisor to sign a "Manual Entry Time Sheet" or "Punch Edit Form" to record that he had received compliant meal periods on shifts when he had not, in fact, received these meal periods.

As a result of SPIRE's company-wide practices and/or policies, Mr. Cordero and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, Mr. Cordero worked through his meal periods completing maintenance requests and attending to guests because there were no other employees available to complete these duties. As a further example, Mr. Cordero had his meal periods cut short and interrupted, or had to forego his meal periods altogether to respond to maintenance requests from management on his company-issued radio and mobile phone.

In addition, SPIRE did not provide Mr. Cordero and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, Mr. Cordero would work shifts in excess of ten (10) hours per day, but was not provided second meal periods during these shifts. Mr. Cordero and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, SPIRE had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. SPIRE took the position that non-exempt, hourly paid employees had waived their rights to second meal periods for the entirety of their employment and, on that basis, did not provide them with all second meal periods to which they were entitled. Specifically, SPIRE's "Permanent Meal Period Waiver for 2nd Meal Period on Workdays between 10 hours and 12 hours" form provides that the waiver remains in effect until the employee provides his or her manager with written notice of his or her decision to revoke using a form provided by SPIRE: "I understand I may revoke this waiver in writing . . . and that I should do so by using the Cancellation of Meal Break Waiver Form provided by the hotel." SPIRE's presumption that second meal periods would not be provided for shifts in excess of ten (10) hours but less than twelve (12) hours due to blanket meal period waivers, and imposition on employees to revoke the waivers in writing using a particular form provided by SPIRE, discouraged and impeded Mr. Cordero and other aggrieved employees from taking all second meal periods to which they were entitled.

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

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

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That SPIRE requires employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because SPIRE's obligation to provide Mr. Cordero and other aggrieved employees with meal periods did not arise until SPIRE had employed them for a full five (5) hours.

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

Furthermore, SPIRE engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Cordero and other aggrieved employees have not received premium pay for all missed, interrupted, or late meal periods. Alternatively, to the extent that SPIRE did pay Mr. Cordero and other aggrieved employees premium pay for missed, late, and interrupted meal periods, SPIRE did not pay Mr. Cordero and other aggrieved employees at the correct rate of pay for premium wages because SPIRE 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, SPIRE failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Cordero 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).

First, during the relevant time period, SPIRE regularly failed to authorize and permit Mr. Cordero 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, SPIRE's company-wide policies and/or practices, including utilizing labor budgets and assignment of heavy workloads and service request deadlines, prevented Mr. Cordero and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. SPIRE also failed to schedule rest periods, which, coupled with SPIRE's failure to provide adequate rest period coverage, further led to Mr. Cordero and other aggrieved employees not being authorized and permitted to take rest periods.

Second, as stated, SPIRE had, and continues to have, a policy and/or practice of requiring that Mr. Cordero and other aggrieved employees carry a company-issued radio and mobile phone to respond to requests at all times, including during rest periods. For example, Mr. Cordero had his rest periods cut short and interrupted, or had to forego his rest periods altogether to respond to maintenance requests on his company-issued radio and mobile phone.

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

As a result of SPIRE's practices and policies, Mr. Cordero 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, throughout his employment, Mr. Cordero missed his rest periods in order to complete all of the work-related duties

SPIRE assigned to him. Additionally, Mr. Cordero did not receive a third rest period when working shifts in excess of 10 hours.

SPIRE also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Cordero and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that SPIRE did pay Mr. Cordero and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, SPIRE did not pay Mr. Cordero and other aggrieved employees at the correct rate of pay for premium wages because SPIRE 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, SPIRE failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Cordero 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. SPIRE has not provided Mr. Cordero 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, SPIRE has knowingly and intentionally provided Mr. Cordero and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, SPIRE issued uniform wage statements to Mr. Cordero 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, SPIRE violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

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

Moreover, because SPIRE did not calculate Mr. Cordero's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, SPIRE did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, SPIRE also failed to list the correct amount of net wages in violation of section 226(a)(5). SPIRE 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 meal and rest premium wages, in violation of section 226(a)(9).

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

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), SPIRE willfully failed to maintain accurate payroll records for Mr. Cordero 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, SPIRE failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Mr. Cordero and other aggrieved employees, in violation of section 1198. As stated, SPIRE engaged in a company-wide practice and/or policy of falsifying Mr. Cordero'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 Mr. Cordero and other aggrieved employees. Furthermore, in light of SPIRE's failure to provide Mr. Cordero and other aggrieved employees with second 30-minute meal periods to which they were entitled, SPIRE kept no records of meal start and end times for second meal periods.

Because SPIRE failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Cordero and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Cordero and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine

whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

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

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

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

Mr. Cordero 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.

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

Mr. Cordero 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 § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, SPIRE implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo a mandatory physical examination and/or drug test, but required them to do so at their own expense. As stated, upon information and belief, SPIRE had a company-wide policy requiring that all employees travel to a specified medical facility using their own personal vehicles to undergo physical examinations and/or drug testing. At all times, SPIRE was in control of scheduling the date and time for the examination and/or testing, selecting the provider/facility where the examination and/or testing was to take place, and determining the scope of the examination and/or testing.

Other aggrieved employees were required to travel in their own personal vehicles to designated medical facilities and spend time undergoing SPIRE's mandatory drug test and/or physical examination. However, SPIRE did not compensate other aggrieved employees for the time they spent traveling to and from their drug tests and/or physical examinations, or for the time they spent undergoing the testing and/or examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. SPIRE's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory physical examinations and/or drug testing is in violation of California Labor Code section 222.5.

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

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

During the relevant time period, on information and belief, SPIRE scheduled other aggrieved employees to work eight (8) or more hours per day and more than six (6) consecutive days in a workweek. Because other aggrieved employees worked over 30 hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that other aggrieved employees may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

Thus, SPIRE caused other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Other aggrieved employees are therefore 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 § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11050(14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.”

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

SPIRE’s California hotels’ front desk, registration desk, and concierge desk areas are generally similar in their layout and design and there was, and continues to be, space behind the front desk, registration desk, and concierge desk areas to allow for the presence and use of a seat or stool by other aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties. SPIRE could provide other aggrieved employees with a seat or stool at the front desks, registration desks, and concierge desks, but instead denies them seating and forces aggrieved employees to stand throughout the day.

Other aggrieved employees spent a substantial portion of their day behind the front desks, registration desks, and concierge desks, regardless of their actual job title or description. The nature of the work of an employee performing front desk, registration desk, and concierge duties can reasonably be accomplished from a seated position. However, SPIRE systematically, and on a company-wide basis, does not provide seats or stools at or near front desks, registration desks, or concierge desks, forcing other aggrieved employees to stand throughout their work shifts.

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

As a result of SPIRE’s company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, other aggrieved employees were forced to stand during shifts and denied seats. SPIRE’s failure to provide suitable seating to

other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(A).

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

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

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

California Code of Regulations, Title 8, section 11050(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012)

During the relevant time period, SPIRE violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5) because SPIRE failed to pay Mr. Cordero and other aggrieved employees reporting time pay when they reported for work for their scheduled shift but were put to work for less than half of the regular schedule.

As stated above, SPIRE failed to pay Mr. Cordero and other aggrieved employees reporting time pay when they presented themselves ready for work by waiting “on-call” and awaiting instructions on whether to they needed to show up, but ultimately were not called. SPIRE did not pay Mr. Cordero and other aggrieved employees for at least half of their scheduled day's work when they were subject to SPIRE's on-call policy and were not called or told not to come into work. For example, Mr. Cordero waited at his home during his scheduled “on-call” shifts as required by SPIRE's on-call policy, but was sometimes not called or told that SPIRE did not need him to work. When this occurred, SPIRE did not pay him for at least half of his scheduled standby time or the required minimum reporting time pay.

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

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 4(C) – Failure to Pay Split-Shift Premiums

California Labor Code section 1198 provides that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code

section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11050(4)(C) provides that, “When an employee works a split shift, one (1) hour’s pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.” California Code of Regulations, Title 8, defines a split shift as “a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.”

SPIRE violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(4)(C), because SPIRE failed to pay other aggrieved employees a split-shift premium when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour. Other aggrieved employees were required to report to work for their scheduled morning shifts, and then return later to complete their scheduled evening or overnight shifts. When this occurs, SPIRE did not always pay other aggrieved employees an additional hour at minimum wage. At all relevant times, other aggrieved employees did not reside at SPIRE’s locations.

SPIRE’s failure to compensate other aggrieved employees with split-shift pay when they returned to work for an additional shift in the same day, after having been clocked out for more than an hour, violates California Labor Code section 1198 and California Code of Regulations Title 8, Section 11050(4)(C). Other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 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, SPIRE had a company-wide policy of requiring Mr. Cordero and other aggrieved employees to utilize their own personal vehicles to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, SPIRE required Mr. Cordero to drive his personal vehicle to hardware stores to obtain plumbing components or other maintenance supplies because SPIRE failed to maintain their company truck in working condition. Although SPIRE required Mr. Cordero and other aggrieved employees use their own vehicles and complete these tasks as part of their job duties, SPIRE never reimbursed them for their travel expenses.

Additionally, as stated, SPIRE had a company-wide policy of requiring other aggrieved employees to travel in their own personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, SPIRE was in control of scheduling the date and time for the testing and/or physical examinations, selecting the

provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. SPIRE gave other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of SPIRE. Although SPIRE required other aggrieved employees to undergo drug testing and/or physical examinations, SPIRE never reimbursed them for all of their travel expenses.

Second, during the relevant time period, SPIRE, on a company-wide basis, required Mr. Cordero and other aggrieved employees to report to work wearing clean uniforms, which forced Mr. Cordero and other aggrieved employees to frequently wash their uniforms, and incur expenses for doing so. Due to the nature of his work, Mr. Cordero's uniforms would become stained and/or acquire an unpleasant odor, and Mr. Cordero would be required to wash these uniforms separately after his shifts.

Third, during the relevant time period, SPIRE had a company-wide policy of requiring Mr. Cordero and other aggrieved employees to utilize their own personal cellular phones and cellular data to carry out their job duties, but SPIRE failed to reimburse them for the costs of their work-related cellular phone expenses. Mr. Cordero and other aggrieved employees were required to use their personal cellular phones to complete their work-related duties, such as answering calls from management while scheduled for standby shifts and discussing work-related matters with supervisors off-the-clock. For example, as stated, SPIRE required Mr. Cordero to respond to calls from his supervisor on his personal cellular phone to discuss maintenance requests he had completed during his previous shifts. Although SPIRE required Mr. Cordero and other aggrieved employees to utilize their personal cellular phones to address work-related responsibilities, SPIRE failed to reimburse them for their cellular phone expenses.

SPIRE could have provided Mr. Cordero and other aggrieved employees with the actual tools for use on the job, such as properly maintained company vehicles or alternate transportation, access to laundering services, and company phones. Or, SPIRE could have reimbursed employees for the costs of their mileage, travel, laundry, and cellular phone usage. Instead, SPIRE passed these operating costs off onto Mr. Cordero and other aggrieved employees. At all relevant times, Mr. Cordero did not earn at least two (2) times the minimum wage.

Thus, SPIRE had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Cordero 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.

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

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

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

Accordingly, Mr. Cordero seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Cordero, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against SPIRE for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Cordero 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:

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

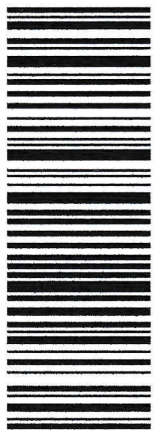
Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

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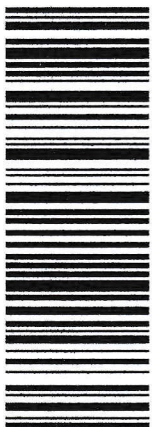
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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

AWH BURBANK HOTEL, LLC
111 S PFINGSTEN RD STE 425
DEERFIELD IL 60015



9590 9402 1512 5362 2724 28

2. Article Number (Transfer from service label)

7020 1290 0001 8879 0589

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

CERTIFIED MAIL®



7020 1290 0001 8879 0589

AWH BURBANK HOTEL, LLC
111 S PFINGSTEN RD STE 425
DEERFIELD IL 60015

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

AWH BURBANK HOTEL, LLC

Street and Apt. No. **111 S PFINGSTEN RD STE 425**

City, State, ZIP+4 **DEERFIELD IL 60015**

Postmark
Here

Cordero V. AWH
Burbank Hotel, LLC

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

See Reverse for Instructions

tone

LAW APC

1000
Park East, Ste 1000
Los Angeles, CA 90067

CERTIFIED MAIL®



7020 1290 0001 8879 0572

one
LAW APC
1000
Park East, Ste 1000
CA 90067



SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

AWH BURBANK HOTEL, LLC
1040 AVENUE OF THE AMERICAS 9TH FL
NEW YORK NY 10018



9590 9402 1512 5362 2724 35

2. Article Number (Transfer from service label)

7020 1290 0001 8879 0572

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
- ☐ Registered Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

AWH BURBANK HOTEL, LLC
1040 AVENUE OF THE AMERICAS 9TH FL
NEW YORK NY 10018

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

AWH BURBANK HOTEL, LLC

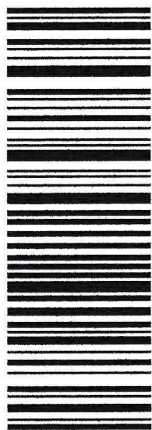
Street and Apt. No., 1040 AVENUE OF THE AMERICAS 9TH FL

City, State, ZIP+4® NEW YORK NY 10018

Postmark

Here
Cordero v. AWH
Burbank Hotel, LLC

CERTIFIED MAIL®



7020 1290 0001 8879 0565

stone
LAW APC
1000
Park East, Ste 1000
S, CA 90067

SPIRE HOSPITALITY, LLC
4600 FULLER DRIVE, SUITE 100
IRVING TX 75038



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:

SPIRE HOSPITALITY, LLC
4600 FULLER DRIVE, SUITE 100
IRVING TX 75038



9590 9402 1512 5362 2724 42

2. Article Number (Transfer from service label)

7020 1290 0001 8879 0565

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

SPIRE HOSPITALITY, LLC

Street and Apt. No., 4600 FULLER DRIVE, SUITE 100

City, State, ZIP+4® IRVING TX 75038

Postmark
Here

Cordero V. Spire
Hospitality, LLC

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:

SPIRE HOSPITALITY, LLC
4600 FULLER DRIVE, SUITE 100
IRVING TX 75038



9590 9402 1512 5362 2724 42

2. Article Number (Transfer from service label)

7020 1290 0001 8879 0565

COMPLETE THIS SECTION ON DELIVERY
A. Signature

x *[Signature]* 3829

- ☒ Agent
☐ Addressee

B. Received by (Printed Name)

[Signature] 3829

C. Date of Delivery

1-22-11

- 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

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:

AWH BURBANK HOTEL, LLC
1040 AVENUE OF THE AMERICAS 9TH FL
NEW YORK NY 10018



9590 9402 1512 5362 2724 35

2. Article Number (Transfer from service label)

7020 1290 0001 8879 0572

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

Zachary Cox

C. Date of Delivery

1/25/21

- 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:

AWH BURBANK HOTEL II, LLC
1040 AVENUE OF THE AMERICAS, 9TH FL
NEW YORK NY 10018



9590 9402 1512 5362 2724 11

2. Article Number (Transfer from service label)

7020 1290 0001 8879 0596

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

Zachary Cox

C. Date of Delivery

1/25/21

- 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:

AWH PARTNERS, LLC
AWH BURBANK HOTEL II, LLC
1040 AVENUE OF THE AMERICAS, 9TH FL
NEW YORK NY 10018



9590 9402 1512 5362 2724 04

2. Article Number (Transfer from service label)

7020 1290 0001 8879 0602

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

Zachary Cox

C. Date of Delivery

1/25/21

- 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 THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ Agent ☒ Addressee	
1. Article Addressed to: AWH BURBANK HOTEL, LLC 111 S PFINGSTEN RD STE 425 DEERFIELD IL 60015		B. Received by (Printed Name) C. Date of Delivery Signature	
2. Article Number (Transfer from service label) 7020 1290 0001 8879 0589		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	
Barcode: 9590 9402 1512 5362 2724 28			
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

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I am employed in the County of Los Angeles. I declare that I am over the age of eighteen (18) and not a party to this action. My business address is: Capstone Law APC, 1875 Century Park East, Suite 1000, Los Angeles, California 90067.

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

Andrew M. McNaught
Elizabeth J. MacGregor
Seyfarth Shaw LLP
560 Mission Street, 31st Floor
San Francisco, California 94105
amcnaught@seyfarth.com
emacgregor@seyfarth.com

- EXECUTED** this document on May 18, 2021, at Los Angeles, California.

Sandy S. Acevedo