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Superior Court of California
County of Los Angeles

MAR 19 2021

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and on behalf of all other similarly situated current and
former employees of BHA HOSPITALITY LLC

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

SILVIA GARCIA, individually, and on behalf
of all other similarly situated current and
former employees of BHA HOSPITALITY
LLC,

Plaintiffs,

vs.

BHA HOSPITALITY LLC, a Delaware
limited liability company; and DOES 1
through 100, inclusive,

Defendants

CASE NO.: **21STCV10883**

CLASS ACTION COMPLAINT FOR
DAMAGES FOR:

1. Failure to Provide Required Meal
Periods [California Labor Code §§
226.7, 512];
2. Failure to Provide Required Rest
Breaks [California Labor Code §
226.7];
3. Failure to Pay All Wages Due
[California Labor Code § 204];
4. Failure to Pay Overtime Compensation
[California Labor Code §§ 510, 1194
and 1198];
5. Failure to Provide Accurate Pay
Statements [California Labor Code §
226];
6. Failure to Pay All Wages Due to
Discharged or Quitting Employees
[California Labor Code §§ 201, 202 &
203];
7. Unlawful Business Practices
[California Business and Professions
Code § 17200];
8. Representative Action for Civil
Penalties [California Labor Code §§
2698-2699.5]

DEMAND FOR JURY TRIAL

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THE
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D. C. 20535

TO : DIRECTOR, FBI (100-442100)
FROM : SAC, NEW YORK (100-100000)
SUBJECT: [Illegible]

STICAT0883

1 Plaintiff hereby alleges as follows:

2 **JURISDICTION AND VENUE**

3 1. This Court is the proper Court, and this action is properly filed in the Superior
4 Court of the State of California, County of Los Angeles, because Defendant maintains offices and
5 facilities and transacts business in the County of Los Angeles, and because Defendant's illegal
6 payroll policies and practices and other unlawful actions which are the subject of this action were
7 applied, at least in part, to Plaintiffs in the County of Los Angeles.

8 **PLAINTIFF**

9 2. Plaintiff Silvia Garcia (hereinafter "NAMED PLAINTIFF") on behalf of herself
10 individually, and other similarly situated current and former employees in the State of California
11 (collectively "PLAINTIFFS") of Defendant BHA HOSPITALITY LLC, (hereinafter
12 "DEFENDANT"), a Delaware limited liability company, and Defendants DOES 1 through 100
13 (hereinafter "DEFENDANTS DOES 1 through 100" and, collectively, "DEFENDANTS"), brings
14 this class action to recover, among other things, unpaid wages earned, penalties due, and interest
15 from illegal meal period policies and procedures, illegal rest break policies and procedures, failure
16 to pay all wages due, failure to pay overtime, failure to pay all wages due to discharged or quitting
17 employees, failure to provide accurate pay statements, and failure to reimburse attorney's fees,
18 costs, and expenses. PLAINTIFFS reserve the right to name additional class representatives.

19 3. NAMED PLAINTIFF is a resident of California. At all relevant times, herein,
20 NAMED PLAINTIFF was employed by DEFENDANT as a non-exempt, hourly employee.

21 4. PLAINTIFFS are current and former employees of DEFENDANT, who worked
22 for DEFENDANT in California for a period of time within the four (4) years preceding the filing
23 of this action.

24 **DEFENDANTS**

25 5. At all relevant times alleged herein, PLAINTIFFS are informed and believe, and
26 thereon allege, that DEFENDANT is, and at all times relevant hereto was, a limited liability
27 company. PLAINTIFFS are further informed and believe, and thereon allege, that DEFENDANT
28 is authorized to conduct business in the State of California, and does conduct business in the State

1 of California. Specifically, upon information and belief, DEFENDANT maintains offices and
2 conducts business in, and engages in illegal meal period, rest break, payroll and other practices or
3 policies in the County of Los Angeles, State of California.

4 6. The true names and capacities of DEFENDANTS DOES 1 through 100, inclusive,
5 are unknown to PLAINTIFFS who therefore sue said DEFENDANTS DOES 1 through 100 by
6 fictitious names. PLAINTIFFS will amend this Complaint to show their true names and
7 capacities when they have been ascertained.

8 7. All claims against DEFENDANT are also pled against DEFENDANTS DOES 1
9 through 100.

10 8. PLAINTIFFS are informed and believe and thereon allege that each and every of
11 the acts and omissions alleged herein were performed by, and/or attributable to, all
12 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
13 of each of the other DEFENDANTS, and that said acts and failure to act were within the course
14 and scope of said agency, employment and/or direction and control.

15 9. In perpetrating the acts and omissions alleged herein, DEFENDANT acted
16 pursuant to and in furtherance of its policies and practices of not paying PLAINTIFFS all wages
17 earned and due through methods and schemes including, but not limited to: failing to provide meal
18 periods as required by law; failing to provide rest breaks as required by law; failing to pay all
19 wages due; failing to pay overtime; failing to pay all wages due to discharged or quitting
20 employees; and failing to provide accurate wage statements as required by law, all in violation of
21 the California Labor Code and California Industrial Welfare Commission Orders ("IWC Wage
22 Orders").

23 10. As a direct and proximate result of the unlawful actions of DEFENDANT,
24 PLAINTIFFS have suffered and continue to suffer from unpaid wages and other damages in
25 amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this Court.

26 ///

27 ///

28 ///

1 **FACTS COMMON TO ALL CASUES OF ACTION**

2 11. On or about March 13, 2018, NAMED PLAINTIFF commenced employment with
3 DEFENDANT at DEFENDANT's restaurant located at 233 N. Beverly Drive, Beverly Hills,
4 California 90210 as a server and was paid as an hourly, non-exempt employee throughout the
5 duration of her employment by DEFENDANT. During her employment, NAMED PLAINTIFF
6 was denied rest breaks on a daily basis and was regularly required to take, partial or late meal
7 breaks or was denied such meal breaks altogether. PLAINTIFF was not paid the requisite
8 statutory premiums for such missed rest breaks or for such partial, missed or late meal breaks.
9 Moreover, PLAINTIFF's timecards were routinely modified by management after PLAINTIFF
10 entered her time to reflect a reduced number of hours worked and that meal periods were taken in
11 a timely and compliant fashion.

12 12. NAMED PLAINTIFF was not provided meal periods as prescribed by California
13 law. Specifically, during NAMED PLAINTIFF's employment, DEFENDANT routinely failed to
14 provide NAMED PLAINTIFF with an uninterrupted meal period of at least thirty (30) minutes in
15 length within the first five (5) hours of work during her shifts.

16 13. NAMED PLAINTIFF was not authorized and permitted to take rest breaks as
17 prescribed by California law. Specifically, during NAMED PLAINTIFF's employment,
18 DEFENDANT failed to authorize and permit NAMED PLAINTIFF to take a ten-minute
19 uninterrupted rest break for every four-hour work period or major fraction thereof, as required by
20 the IWC Wage Orders.

21 14. The violations set forth in paragraphs 12 and 13 above were the result of
22 DEFENDANT's policies and practices pursuant to which DEFENDANT failed to properly train
23 servers to take meal periods and failed to authorize and permit servers to take compliant meal
24 periods. In addition, servers were not trained to take proper rest breaks and, NAMED
25 PLAINTIFF and similarly situated employees were not authorized and permitted to take such
26 breaks by DEFENDANT. Moreover, the restaurant was staffed in such a way as to preclude the
27 rotation of servers to enable servers to take compliant rest breaks. DEFENDANT also had a
28 policy and practice of preventing servers from leaving the premises during meal breaks stating

1 that employees had to remain on the premises to ensure that they returned from their meal breaks
2 in a timely fashion. Therefore, DEFENDANT did not relieve servers of all duties to enable them
3 to take compliant thirty-minute meal periods or ten-minute rest breaks. In addition to the above-
4 mentioned failure to relieve servers of all duties for mandated meal and rest breaks,
5 DEFENDANT failed to obtain the written on-duty meal period agreement required by IWC Wage
6 Order 5-2001 (the "IWC Wage Order"), and also failed to pay servers for their on-duty meal
7 periods, as required by the IWC Wage Order.

8 15. DEFENDANT failed to pay NAMED PLAINTIFF and similarly situated servers
9 one (1) hour of pay at their regular rate of compensation for each workday that a meal period was
10 not provided in compliance with California law. DEFENDANT also failed to pay NAMED
11 PLAINTIFF and similarly situated servers one (1) hour of pay at their regular rate of
12 compensation for each workday that a rest break was not provided in compliance with California
13 law.

14 16. NAMED PLAINTIFF was regularly required to work more than eight (8) hours in
15 a day and/or forty (40) hours in a week, but DEFENDANT did not pay NAMED PLAINTIFF
16 overtime wages for those hours worked in excess of such statutorily mandated periods.

17 17. The violations set forth in paragraphs 11 and 16 above were the result of
18 DEFENDANT's policies and practices pursuant to which DEFENDANT unlawfully failed to pay
19 overtime wages to NAMED PLAINTIFF in violation of California law.

20 18. DEFENDANT engaged in policies and practices pursuant to which DEFENDANT
21 routinely modified NAMED PLAINTIFF's timecards to reduce her total hours worked to create
22 the appearance that she worked fewer hours than she reported and that her meal periods were
23 taken in a timely, uninterrupted and otherwise legally-mandated manner. Such policies and
24 practices included deducting a half-hour's wages daily from NAMED PLAINTIFF's paycheck
25 and rounding hours worked irrespective of whether NAMED PLAINTIFF took a timely,
26 uninterrupted and otherwise compliant meal period. Such practices were intended to avoid the
27 payment of excess premiums for missed meal and rest breaks and to avoid the payment of
28 overtime.

19. On or about [March 23, 2020], DEFENDANT terminated NAMED PLAINTIFF's employment. To date, NAMED PLAINTIFF has not been paid all the wages and monies owed.

20. Given the meal period violations, rest break violations, non-payment of overtime and failure of DEFENDANT to compensate NAMED PLAINTIFF fully, as set forth above, NAMED PLAINTIFF's wage statements were inaccurate and failed to comply with California law.

21. DEFENDANT's illegal policies and practices were applied consistently to PLAINTIFFS. These policies and practices were designed for the sole and exclusive benefit of DEFENDANT.

22. DEFENDANT's aforementioned unlawful policies and practices were in effect throughout NAMED PLAINTIFF's employment with DEFENDANT, and were applied uniformly to NAMED PLAINTIFF and her co-workers.

CLASS ACTION DESIGNATION

23. PLAINTIFFS' causes of action for failure to authorize and permit required meal periods, failure to authorize and permit required rest breaks, failure to pay all wages due, failure to pay overtime pay, failure to pay all wages due to discharged or quitting employees, failure to provide accurate pay statements, and unlawful business practices, all under California law, are appropriately suitable for class treatment because:

A. The potential class is a significant number. Joinder of all current and former employees individually would be impractical.

B. This action involves common questions of law and fact to the potential class because the action focuses on DEFENDANT's systematic course of illegal employment and payroll practices and policies, which was applied to all similarly situated employees in violation of the California Labor Code, the IWC Wage Order(s), and the California Business and Professions Code which prohibits unfair business practices arising from such violations.

C. The claims of the NAMED PLAINTIFF are typical of the class because DEFENDANT subjected all of their similarly situated hourly employees to the identical violations

1 of the California Labor Code, the IWC Wage Order(s), and the California Business and
2 Professions Code.

3 D. The NAMED PLAINTIFF is able to fairly and adequately protect the
4 interests of all members of the class because it is in NAMED PLAINTIFF's best interest to
5 prosecute the claims alleged herein to obtain full compensation due to PLAINTIFFS.

6 24. PLAINTIFFS are members of the following class: All hourly, non-exempt current
7 and former employees who worked for DEFENDANT within the four years prior to the
8 commencement of this action.

9
10 **FIRST CAUSE OF ACTION**

11 **Failure to Provide Required Meal Periods**

12 **[California Labor Code §§ 226.7, 512]**

13 **(Against All Defendants)**

14 25. PLAINTIFFS re-allege and incorporate by reference the allegations contained in
15 the paragraphs above as if fully set forth herein.

16 26. At all times relevant herein, as part of its illegal payroll policies and practices to
17 deprive its servers of all wages earned and due, DEFENDANT failed to relieve these employees
18 of all duty during meal periods, failed to obtain the written consent of employees to on-duty meal
19 periods, required, permitted or otherwise suffered its employees to take less than the required
20 thirty-minute meal periods or to work through them, failed to provide employees with meal
21 periods within the first five (5) hours of their work, and failed to otherwise provide the required
22 meal periods to their employees as required under California Labor Code §§ 226.7 and 512, and
23 the IWC Wage Order(s).

24 27. DEFENDANT further violated California Labor Code § 226.7 and the IWC Wage
25 Order(s) by failing to pay each of its employees who was not provided with a legally-compliant
26 meal period as required an additional one (1) hour of compensation at each employee's regular
27 rate of pay.
28

28. As a proximate result of the aforementioned violations, members PLAINTIFFS have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, attorney's fees, expenses and costs of suit.

SECOND CAUSE OF ACTION

Failure to Provide Required Rest Breaks

[California Labor Code § 226.7]

(Against All Defendants)

29. PLAINTIFFS re-allege and incorporate by reference the allegations contained in the paragraphs above as if fully set forth herein.

30. At all times relevant herein, as part of its illegal payroll policies and practices to deprive its PLAINTIFFS of all wages earned and due, DEFENDANT required these employees to take less than the required ten-minute rest breaks or to work through them, failed to provide employees with a rest break for every four-hour work period or major fraction thereof, and failed to otherwise provide the required rest breaks to its employees as required under California Labor Code § 226.7 and the IWC Wage Order(s). The foregoing was the result of a policy and/or practice of failing to authorize and permit compliant rest breaks to PLAINTIFFS in accordance with California law.

31. DEFENDANT further violated California Labor Code § 226.7 and the IWC Wage Order(s) by failing to pay each of its employees who was not provided with a legally-compliant rest break as required an additional one (1) hour of compensation at each employee's regular rate of pay.

32. As a proximate result of the aforementioned violations, PLAINTIFFS have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, attorney's fees, expenses and costs of suit.

THIRD CAUSE OF ACTION

Failure to Pay All Wages Due

1 **[California Labor Code § 204]**

2 **(Against All Defendants)**

3 33. PLAINTIFFS re-allege and incorporate by reference the allegations contained in
4 the paragraphs above as if fully set forth herein.

5 34. Pursuant to California Labor Code § 204, payment of all wages earned is due a
6 minimum of twice during each calendar month.

7 35. DEFENDANT failed to pay PLAINTIFFS for all hours worked by requiring,
8 permitting or suffering the employees to work through meal periods, failing to pay employees for
9 on-duty meal periods, failing to pay an hour of pay for denied meal periods and rest breaks,
10 unlawful withholding and collection of wages, failing to pay overtime, and other methods.

11 36. DEFENDANT's conduct described herein violates California Labor Code § 204
12 and the IWC Wage Order(s). As a proximate result of the aforementioned violations,
13 PLAINTIFFS have been damaged in an amount according to proof at trial. Therefore,
14 PLAINTIFFS are entitled to recover the unpaid balance of wages DEFENDANT owes
15 PLAINTIFFS, plus interest, penalties, attorney's fees, expenses and costs of suit.

16
17 **FOURTH CAUSE OF ACTION**

18 **Failure to Pay Overtime Compensation**

19 **[California Labor Code §§ 510, 1194 and 1198]**

20 **(Against All Defendants)**

21 37. PLAINTIFFS re-allege and incorporate by reference the allegations contained in
22 the paragraphs above as if fully set forth herein.

23 38. California Labor Code § 510 provides that employees in California shall not be
24 employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they
25 receive additional compensation beyond their regular wages in amounts specified by law.

26 39. California Labor Code §§ 1194 and 1198 provide that employees in California
27 shall not be employed more than eight (8) hours in any workday unless they receive additional
28 compensation beyond their regular wages in amounts specified by law. Additionally, California

1 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed
2 by the California Industrial Welfare Commission is unlawful.

3 40. At all times relevant hereto, PLAINTIFFS have worked more than eight (8), and at
4 times more than twelve (12), hours in a workday, as employees of DEFENDANT.

5 41. At all times relevant hereto, DEFENDANT failed to pay PLAINTIFFS overtime
6 compensation for the hours they have worked in excess of the maximum hours permissible by law
7 as required by California Labor Code §§ 510 and 1198. Members of the PLAINTIFFS are
8 regularly required to work overtime hours.

9 42. By virtue of DEFENDANT's unlawful failure to pay additional, premium rate
10 compensation to PLAINTIFFS for their overtime hours worked, PLAINTIFFS have suffered, and
11 will continue to suffer, damages in amounts which are presently unknown to them but which
12 exceed the jurisdictional minimum of this Court and which will be ascertained according to proof
13 at trial.

14 43. By failing to keep adequate time records required by California Labor Code §
15 1174(d), DEFENDANT has made it difficult to calculate the full extent of overtime compensation
16 due PLAINTIFFS.

17 **FIFTH CAUSE OF ACTION**

18 **Failure to Provide Accurate Pay Statements**

19 **[California Labor Code § 226]**

20 **(Against All Defendants)**

21 44. PLAINTIFFS re-allege and incorporate by reference the allegations contained in
22 the paragraphs above as if fully set forth herein.

23 45. At all relevant times herein, as part of its illegal payroll policies and practices to
24 deprive its non-exempt employees of all wages earned and due, DEFENDANT failed to provide
25 PLAINTIFFS with wage statements and/or accurate wage statements as required by California
26 Labor Code § 226.

46. As a proximate result of the aforementioned violations, PLAINTIFFS have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, attorney's fees, and expenses and costs of suit.

SIXTH CAUSE OF ACTION

Failure to Pay All Wages Due to Discharged or Quitting Employees

[California Labor Code §§ 201, 202, 203]

(Against All Defendants)

47. PLAINTIFFS re-allege and incorporate by reference the allegations contained in the paragraphs above as if fully set forth herein.

48. Pursuant to California Labor Code §§ 201 and 202 employers, including DEFENDANT, must make timely payment of the full wages due to their employees who quit or have been discharged. California Labor Code § 203 provides waiting time penalties for violations of §§ 201 and 202.

49. At the time of all respective termination and quitting dates of former employee PLAINTIFFS, such former employees had unpaid wages which were due. In violation of California Labor Code §§ 201, 202 and 203, DEFENDANT failed to pay wages due and owing to PLAINTIFFS, who are or were former employees of DEFENDANT, in amounts to be proven at the time of trial and within the jurisdiction of this Court.

50. DEFENDANT has committed and continues to commit the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring PLAINTIFFS' rights. As a direct result, PLAINTIFFS have suffered and continue to suffer substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorney's fees in seeking to compel DEFENDANT to fully perform its obligations under state law, all to their respective damages in amounts according to proof at time of trial and within the jurisdiction of this Court. PLAINTIFFS are therefore entitled to waiting time penalties pursuant to California Labor Code § 203, which provides that an employee's wages will continue as a penalty for up to thirty (30) days from the time the wages are due.

1
2 **SEVENTH CAUSE OF ACTION**

3 **Unlawful Business Practices**

4 **[California Business and Professions Code § 17200, *et seq.*]**

5 **(Against All Defendants)**

6 51. PLAINTIFFS re-allege and incorporate by reference the allegations contained in
7 the paragraphs above as if fully set forth herein.

8 52. By violating the foregoing statutes, DEFENDANT's acts constitute unfair
9 and unlawful business practices under California Business and Professions Code § 17200, *et seq.*

10 53. DEFENDANT's violation of California wage and hour laws constitutes a business
11 practice because it was done repeatedly over a significant period of time, and in a systematic
12 manner to the detriment of PLAINTIFFS.

13 54. PLAINTIFFS have suffered damages and request damages and/or restitution of all
14 monies to be disgorged from DEFENDANT in an amount according to proof at the time of trial,
15 and within the jurisdiction of this Court.

16
17 **EIGHTH CAUSE OF ACTION**

18 **Representative Action for Civil Penalties**

19 **[California Labor Code §§ 2698-2699.5]**

20 **(Against All Defendants)**

21 55. PLAINTIFFS re-allege and incorporate by reference the allegations contained in
22 the paragraphs above as if fully set forth herein.

23 56. California Labor Code § 2699(a) specifically provides for a private right of action
24 to recover penalties for violations of the California Labor Code: "[n]otwithstanding any other
25 provision of law, any provision of this code that provides for a civil penalty to be assessed and
26 collected by the California Labor and Workforce Development Agency or any of its departments,
27 divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an
28

1 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
2 himself or herself and other current and former employees.”

3 57. NAMED PLAINTIFF has complied with the requirements set forth in California
4 Labor Code § 2699.3.

5 58. Pursuant to California Labor Code §§ 2698-2699.5, PLAINTIFFS are entitled to
6 collect civil penalties from DEFENDANT in a representative action for the California Labor Code
7 violations set forth above. PLAINTIFFS therefore seek to collect civil penalties on behalf of the
8 State of California for DEFENDANT’s violations of California Labor Code including, but not
9 limited to, §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198 and 1174, which
10 include, but are not limited to, penalties under California Labor Code §§ 2699, 1174.5, 1194 and
11 1198.

12 59. NAMED PLAINTIFF is entitled to an award of civil penalties as set forth in
13 California Labor Code § 2699, *et. seq.* on behalf of herself and the employees of DEFENDANT.
14 In addition, NAMED PLAINTIFF seeks an award of reasonable attorney’s fees and costs.

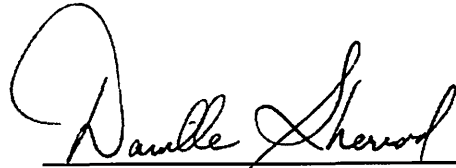
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16 **WHEREFORE**, NAMED PLAINTIFF, individually, and on behalf of all other persons
17 similarly situated, by her and their attorneys, respectfully prays for relief against DEFENDANT
18 and DOES 1 through 100 inclusive, and each of them as appropriate under the facts and laws of
19 the case, as follows:

- 20 1. For compensatory damages, including without limitation special damages,
21 general damages, incidental damages, and consequential damages, to the
22 extent allowed by law;
23 2. For liquidated damages to the extent allowed by law;
24 3. For nominal damages to the extent allowed by law and to the extent not
25 subsumed in or superseded by compensatory damages or liquidated
26 damages
27 4. For restitution and/or disgorgement to the extent allowed by law;
28

5. For statutory penalties to the extent allowed by law, including without limitation any section, subsection, or provision of the California Labor Code and/or any IWC Wage Order;
6. For civil penalties to the extent allowed by law, including without limitation any section, subsection, or provision of the California Labor Code and/or any IWC Wage Order;
7. For prejudgment interest at the statutory rate of ten percent (10 %) per annum to the fullest extent allowable or required by law;
8. For costs and disbursements to the fullest extent allowable or required by law;
9. For reasonable attorney's fees to the fullest extent allowable or required by law; and,
10. For such other, further, or different relief as the Court may appear proper.

Dated: March 19, 2021

RASTEGAR LAW GROUP, APC



Farzad Rastegar
Douglas Perlman
Danielle Sherrod
Attorneys for Plaintiffs

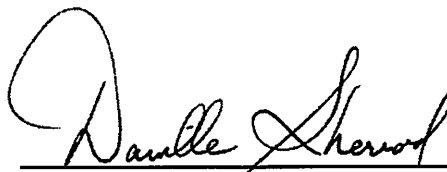
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DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand a jury trial with respect to all issues triable of right by jury.

Dated: March 19, 2021

RASTEGAR LAW GROUP, APC

A handwritten signature in cursive script, appearing to read "Danielle Sherrod", is written over a horizontal line.

Farzad Rastegar
Douglas Perlman
Danielle Sherrod
Attorneys for Plaintiffs