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Superior Court of California
County of Los Angeles

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JESSICA SAMANIEGO, as an aggrieved
employee pursuant to the Private Attorneys
General Act ("PAGA"), on behalf of the
State of California and other aggrieved
employees,

Plaintiff,

vs.

CAVA MEZZE GRILL, LLC, a Maryland
limited liability company; and DOES 1
through 10, inclusive,

Defendants.

Case No.:

21STCV16443
COMPLAINT - PAGA ENFORCEMENT
ACTION

(1) Claim for Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Jessica Samaniego, as an aggrieved employee and on behalf of the State of
2 California and all other non-party Aggrieved Employees, alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as non-exempt, hourly paid
8 employees and against whom one or more violations of any provision in Division 2 Part 2
9 Chapter 1 of the Labor Code or any provision regulating hours and days of work in the
10 applicable Industrial Welfare Commission (“IWC”) Wage Order were committed, as set forth
11 in this complaint, at any time between one year prior to the filing of the pre-filing written
12 notice to the Labor and Workforce Development Agency (“LWDA”) in this case on February
13 23, 2021, until judgment (“non-party Aggrieved Employees”). Plaintiff’s share of civil
14 penalties sought in this action does not exceed \$75,000.

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional
22 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
23 in this action given that the State of California, as the real party in interest in this action, is not
24 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
25 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
26 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
27 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the
28 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court, because Defendants employ persons within the County of Los Angeles and have violated the requirements of the California Labor Code and applicable Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and the applicable Wage Order in at least one location within the County of Los Angeles, including Defendants' locations in Culver City (9343 Culver Blvd., Culver City, California 90232), Los Angeles (1073 Broxton Avenue, Los Angeles, California 90024, and 3201 S. Hoover Street, Los Angeles, CA 90089), Pasadena (345 South Lake Avenue, Pasadena, California 91101), Santa Monica (1318 Second Street, Suite A, Santa Monica, California 90401), and Woodland Hills (6256 Topanga Canyon Blvd., Suite 1280, Woodland Hills, California 91367). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in Los Angeles County, and Plaintiff could bring an action filed under PAGA in any county in which an aggrieved employee worked and Labor Code violations occurred, venue is proper.

Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County, 60 Cal.App.5th 1069 (Cal. 2021).

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Jessica Samaniego is a resident of San Marcos, in San Diego County, California. Defendants employed Plaintiff as an hourly paid, non-exempt Team Member from approximately July 2019 to June 2020. Plaintiff worked for Defendants at their restaurant located at 3722 Paseo Place, Suite 1400, San Diego, California 92130. During her employment, Plaintiff typically worked eight (8) to ten (10) hours per day and five (5) to six (6) days per week. Plaintiff's primary job duties included, without limitation, preparing food,

1 inputting online food orders, attending to customers, and cleaning and maintaining the
2 restaurant premises.

3 7. On information and belief, Defendants required some employees, including
4 Plaintiff, to execute a dispute resolution policy and/or arbitration agreement at the time of
5 their hire or during their employment. On further information and belief, Defendants' dispute
6 resolution policy and/or arbitration agreement was and is both procedurally and substantively
7 unconscionable. Specifically, Defendants presented new hires with an Employment-at-Will
8 and Arbitration Agreement California ("Arbitration Agreement") during the onboarding
9 process, which had to be reviewed and acknowledged immediately. In fact, upon information
10 and belief, the Arbitration Agreement was one of several documents presented to new
11 employees for signature during the orientation process, including a Cava Attendance Policy,
12 Sick Leave Policy, and Employee Confidentiality Agreement, among other documents. Also,
13 employees did not have a meaningful opportunity to negotiate the terms of the Arbitration
14 Agreement. Rather, it was provided to Defendants' employees for them to sign on a take-it or
15 leave-it basis at the time they were hired, along with other on-boarding documents.
16 Furthermore, Defendants did not set forth in the agreement or otherwise provide employees
17 with the rules which will govern the arbitration, instead forcing employees to seek this
18 information out on their own.

19 8. CAVA MEZZE GRILL, LLC was and is, upon information and belief, a
20 Maryland limited liability company, and at all times hereinafter mentioned, an employer
21 whose employees are engaged throughout this county, the State of California, or the various
22 states of the United States of America.

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

27 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
28 were the partners, agents, owners, or managers of CAVA MEZZE GRILL, LLC at all relevant

1 times.

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

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

14 13. Plaintiff is informed and believes, and thereon alleges, that each of said
15 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
16 omissions, occurrences, and transactions alleged herein.

17 **PAGA REPRESENTATIVE ALLEGATIONS**

18 14. Defendants own and operate a chain of Mediterranean restaurants located
19 throughout the United States. Upon information and belief, Defendants maintain a single,
20 centralized Human Resources (“HR”) department at their company headquarters in
21 Washington, D.C., which is responsible for the recruiting and hiring of new employees, and
22 communicating and implementing Defendants’ company-wide policies, including timekeeping
23 policies and meal and rest period policies, to employees throughout California.

24 15. In particular, Plaintiff and other non-party Aggrieved Employees, on
25 information and belief, received the same standardized documents and/or written policies.
26 Upon information and belief, the usage of standardized documents and/or written policies,
27 including new-hire documents, indicate that Defendants dictated policies at the corporate level
28 and implemented them company-wide, regardless of their employees’ assigned locations or

positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee's time of hire.

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

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

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

19. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other non-party Aggrieved Employees were not paid for all hours worked because all hours worked were not recorded.

20. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation.

21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that other non-party Aggrieved Employees were entitled to be paid at a regular rate of pay, and corresponding overtime rate of pay, that included as eligible income all remuneration required by law, including but not limited to, all income derived from

1 incentive pay, nondiscretionary bonuses, and/or other forms of compensation.

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

8 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
10 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
11 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
12 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
13 other non-party Aggrieved Employees were not provided with all meal periods or payment of
14 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
15 uninterrupted, thirty (30) minute meal period.

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

25 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
27 receive complete and accurate wage statements in accordance with California law. In
28 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees

1 were not provided complete and accurate wage statements.

2 26. 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 California Labor Code and applicable IWC Wage Order, but willfully,
5 knowingly, and intentionally failed to do so.

6 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that they were required to comply with requests from other non-party
8 Aggrieved Employees to inspect or receive a copy of their wage records within 21 days in
9 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
10 and intentionally failed to do so.

11 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that other non-party Aggrieved Employees were entitled to receive copies
13 of instruments that they signed upon request. In violation of the California Labor Code,
14 Defendants denied other non-party Aggrieved Employees their right to obtain copies of
15 instruments that they signed.

16 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that other non-party Aggrieved Employees were entitled to receive copies
18 of their personnel records no later than 30 days from the date Defendants receive a written
19 request. In violation of the California Labor Code, Defendants denied other non-party
20 Aggrieved Employees their right to obtain copies of their personnel records within the
21 statutory time limits.

22 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
24 timely payment of all wages earned upon termination of employment. In violation of the
25 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
26 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
27 meal and rest period premiums, and/or reporting time pay, within permissible time periods.

28 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
2 timely payment of wages during their employment. In violation of the California Labor Code,
3 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
4 including, but not limited to, overtime wages, minimum wages, meal and rest period
5 premiums, and/or reporting time pay, within permissible time periods.

6 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and other non-party Aggrieved Employees who worked in
8 excess of 30 days for Defendants in California were entitled to one hour of paid sick leave for
9 every 30 hours worked. In violation of the California Labor Code, Defendants failed to
10 provide Plaintiff and other non-party Aggrieved Employees with sufficient paid sick leave
11 benefits.

12 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that other non-party Aggrieved Employees were entitled to one day's rest
14 in seven. In violation of the California Labor Code, Defendants required other non-party
15 Aggrieved Employees to work more than six consecutive days without a day of rest, where the
16 total hours worked exceeded 30 hours in any week or six hours in any one day thereof.

17 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
19 receive all reporting time pay when Defendants required Plaintiff and other non-party
20 Aggrieved Employees to report to work but were put to work for less than half of their regular
21 scheduled shift. In violation of the California Labor Code, Plaintiff and other non-party
22 Aggrieved Employees were not paid all reporting time pay.

23 35. Plaintiff is informed and believe, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
25 suitable seating and/or were entitled to sit when it did not interfere with the performance of
26 their duties and also have seats nearby to use during a lull in tasks that do require moving
27 about or standing.

28 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
2 receive full reimbursement for all business-related expenses and costs they incurred during the
3 course and scope of their employment and that they did not receive full reimbursement of
4 applicable business-related expenses and costs incurred.

5 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
6 mentioned, Defendants knew or should have known that Defendants had a duty to provide
7 Plaintiff and other non-party Aggrieved Employees with written notice of the material terms
8 of their employment with Defendants as required by the California Wage Theft Prevention
9 Act, but willfully, knowingly, and intentionally failed to do so.

10 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
11 mentioned, Defendants knew or should have known that they had a duty to compensate
12 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
13 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
14 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
15 that they were properly denied wages, all in order to increase Defendants' profits.

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

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

25 41. Plaintiff and other current and former employees of Defendants are "aggrieved
26 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
27 or former employees and one or more of the alleged violations were committed against them.

28 42. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved

1 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
2 following requirements have been met:

- 3 (a) The aggrieved employee shall give written notice by online filing
4 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail
5 to the employer of the specific provisions of the California Labor Code
6 alleged to have been violated, including the facts and theories to support
7 the alleged violations.
- 8 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
9 2699.3(a) and any employer response to that notice shall be
10 accompanied by a filing fee of seventy-five dollars (\$75).
- 11 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
12 employer and the aggrieved employee by certified mail that it does not
13 intend to investigate the alleged violation within sixty (60) calendar
14 days of the postmark date of the Employee’s Notice. Upon receipt of
15 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
16 five (65) calendar days of the postmark date of the Employee’s Notice,
17 the aggrieved employee may commence a civil action pursuant to
18 California Labor Code section 2699 to recover civil penalties in addition
19 to any other penalties to which the employee may be entitled.

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

- 24 (a) The aggrieved employee or representative shall give written notice
25 by online filing to the LWDA and by certified mail to the employer
26 of the specific provisions of the California Labor Code alleged to
27 have been violated (other than those listed in Section 2699.5),
28 including the facts and theories to support the alleged violation.

- 1 (b) An aggrieved employee's notice filed with the LWDA pursuant to
2 2699.3(c) and any employer response to that notice shall be
3 accompanied by a filing fee of seventy-five dollars (\$75).
- 4 (c) The employer may cure the alleged violation within thirty-three (33)
5 calendar days of the postmark date of the notice. The employer
6 shall give written notice by certified mail within that period of time
7 to the aggrieved employee or representative and the agency if the
8 alleged violation is cured, including a description of actions taken,
9 and no civil action pursuant to Section 2699 may commence. If the
10 alleged violation is not cured within the 33-day period, the employee
11 may commence a civil action pursuant to Section 2699.

12 44. On February 23, 2021, Plaintiff provided written notice by online filing to the
13 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
14 Code alleged to have been violated, including facts and theories to support the alleged
15 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
16 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
17 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
18 Plaintiff PAGA Case Number LWDA-CM-822489-21. A true and correct copy of Plaintiff's
19 written notice to the LWDA and Defendants dated February 23, 2021, is attached hereto as
20 "Exhibit 1."

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

24 46. Thus, Plaintiff has satisfied the administrative prerequisites under California
25 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
26 violations of California Labor Code sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432,
27 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 1198.5, 2802, and 2810.5.

28 47. Labor Code section 558(a) provides "[a]ny employer or other person acting on

1 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
2 provision regulating hours and days of work in any order of the Industrial Welfare
3 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
4 dollars (\$50) for each underpaid employee for each pay period for which the employee was
5 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
6 underpaid employee for each pay period for which the employee was underpaid. . . .” Labor
7 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
8 to any other civil or criminal penalty provided by law.” Plaintiff, acting in the public interest
9 as a private attorney general, seeks assessment and collection of civil penalties under Labor
10 Code section 558 for herself, all other non-party Aggrieved Employees, and the State of
11 California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198,
12 and the applicable IWC wage order. Plaintiff, acting in the public interest as a private
13 attorney general, does not seek the recovery of unpaid wages under Labor Code section 558
14 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the
15 applicable IWC wage order.

16 48. Defendants, at all times relevant to this complaint, were employers or persons
17 acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved
18 Employees’ rights by violating various sections of the California Labor Code as set forth
19 above.

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

23 50. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
24 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
25 private attorney general, seeks assessment and collection of civil penalties for herself, all other
26 non-party Aggrieved Employees, and the State of California against Defendants for violations
27 of California Labor Code sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432, 510,
28 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, 1198.5, 2802, and 2810.5.

1 **FIRST CAUSE OF ACTION**

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

3 **(Against all Defendants)**

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

6 52. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
7 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
8 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 226(a),
9 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1198, and 2802. Labor Code section
10 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for
11 violations of those Labor Code sections not found in section 2699.5, including sections
12 226(b)-(c), 246, 432, 516, 1182.12, 1198.5, and 2810.5.

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

- 15 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
16 Wage Order for Defendants’ failure to compensate Plaintiff and other
17 non-party Aggrieved Employees with all required overtime pay and
18 failure to properly calculate the overtime rates paid to other non-party
19 Aggrieved Employees, as set forth below;
- 20 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the
21 applicable IWC Wage Order for Defendants’ failure to compensate
22 Plaintiff and other non-party Aggrieved Employees with at least
23 minimum wages for all hours worked, as set forth below;
- 24 (c) Violation of Labor Code sections 226.7, 512(a), 516, 1198, and the
25 applicable IWC Wage Order for Defendants’ failure to provide Plaintiff
26 and other non-party Aggrieved Employees with meal periods, as set
27 forth below;
- 28 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable

IWC Wage Order for Defendants' failure to authorize and permit Plaintiff and other non-party Aggrieved Employees to take rest periods, as set forth below;

- (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiff and other non-party Aggrieved Employees, as set forth below;
- (f) Violation of Labor Code sections 1174(d), 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as set forth below;
- (g) Violations of Labor Code sections 226(b)-(c), 432, 1198.5, and the applicable IWC Wage Order for failure to produce copies or allow inspection of other non-party Aggrieved Employees' personnel and other employment records upon written request within the statutory time limits, as set forth below;
- (h) Violation of Labor Code section 204 for failure to pay all earned wages during employment, as set forth below;
- (i) Violation of Labor Code sections 201, 202, and 203 for failure to pay all earned wages upon termination, as set forth below;
- (j) Violation of Labor Code section 246 for failure to provide sufficient paid sick leave benefits, as set forth below;
- (k) Violation of Labor Code sections 551 and 552 for failure to provide one day's rest in seven to other non-party Aggrieved Employees, as set forth below;
- (l) Violation of Labor Code section 1198 and the applicable IWC Wage Order for failure to pay reporting time pay when Plaintiff and other non-party Aggrieved Employees were put to work for less than half of their regular scheduled shifts, as set forth below;

- 1 (m) Violation of Labor Code section 1198 for failing to provide suitable
2 seating to Plaintiff and other non-party Aggrieved Employees, as set
3 forth below;
- 4 (n) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
5 and other non-party Aggrieved Employees for all business expenses
6 necessarily incurred, as set forth below; 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 Plaintiff's and other
9 non-party Aggrieved Employees' employment with Defendants, as set
10 forth below.

11 **FAILURE TO PAY OVERTIME**

12 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

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

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

22 56. Specifically, the applicable IWC Wage Order provides that Defendants are and
23 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
24 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
25 one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
26 hours in a workweek.

27 57. The applicable IWC Wage Order further provides that Defendants are and were
28 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve

1 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
2 An employee's regular rate of pay includes all remuneration for employment paid to, or on
3 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

4 58. California Labor Code section 510 codifies the right to overtime compensation
5 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
6 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
7 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
8 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
9 in a day on the seventh (7th) day of work.

10 59. During the relevant time period, Defendants willfully failed to pay all overtime
11 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
12 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
13 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
14 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
15 not recorded.

16 60. First, during the relevant period, upon information and belief, Defendants had,
17 and continue to have, a company-wide policy of discouraging and impeding Plaintiff and
18 other non-party Aggrieved Employees from recording hours worked that were outside of their
19 scheduled shifts in order to limit the amount of overtime employees could accrue. On
20 information and belief, this policy of limiting overtime, coupled with Defendants' use of labor
21 budgets and assignment of heavy workloads and sales goals (*see infra*), led Plaintiff and other
22 non-party Aggrieved Employees to work off-the-clock before and after their scheduled shift
23 times in order to complete their assigned tasks.

24 61. For example, 3-5 times per week, Plaintiff was instructed by her supervisors to
25 arrive 10-15 minutes prior to the start of her scheduled shift and work off-the-clock to help
26 wash dishes, sweep floors, and clean the restroom to prepare the restaurant for the upcoming
27 shift. As a further example, after every shift, Plaintiff was instructed to clock out and
28 continue spending 10-30 minutes disposing of trash, sweeping and mopping floors, and

1 completing other tasks at her supervisors' request. When this occurred, Plaintiff was told by
2 her supervisors that she could not remain clocked in for these tasks because Defendants did
3 not want employees to accrue overtime. At all times, Plaintiff and other non-party Aggrieved
4 Employees remained under the control of Defendants. Defendants could have recorded this
5 off-the-clock work, but refused to do so to avoid paying Plaintiff and other non-party
6 Aggrieved Employees overtime wages.

7 62. Second, during the relevant period, Defendants had a company-wide "on-call"
8 policy, whereby they scheduled Plaintiff and other non-party Aggrieved Employees to work
9 "on-call," or on standby. These "on-call" shifts worked to Defendants' benefit and to the
10 detriment of Plaintiff and other non-party Aggrieved Employees. By utilizing "on-call" shifts,
11 Defendants received the benefit of being able to maximize revenue by having a standby
12 workforce they could choose to utilize or not, depending on restaurant traffic and sales
13 metrics, without incurring the cost of compensating employees who show up to work and
14 work a full or partial scheduled day's work.

15 63. When scheduled for an "on-call" or standby shift, Plaintiff and other non-party
16 Aggrieved Employees were required to wait for the restaurant to call them 30 minutes prior to
17 their scheduled standby shift or to call the restaurant themselves one (1) hour before their
18 scheduled standby shift to see if they were required to come in and work. Plaintiff and other
19 non-party Aggrieved Employees were engaged to wait and could not engage in personal
20 activities as they had to be ready to travel to their respective restaurant locations on short
21 notice and work their standby shift. When scheduled to be "on-call" for a standby shift,
22 Plaintiff and other non-party Aggrieved Employees were controlled by Defendants because
23 they were forced to put their lives on hold and could not use that time freely for their own
24 purposes. For example, Plaintiff refrained from making plans altogether while "on-call" for a
25 standby shift because she knew that she had to drop whatever she was doing at a moment's
26 notice if she was instructed to work her standby shift. Defendants did not pay Plaintiff and
27 other non-party Aggrieved Employees for the time they spent waiting to hear whether they
28 needed to report for work at their restaurant locations on days they ultimately were not called

1 in. Defendants also did not compensate Plaintiff and other non-party Aggrieved Employees
2 for the time they spent calling in to see if they were needed.

3 64. Third, Defendants had, and continue to have, a company-wide policy and/or
4 practice of requiring Plaintiff and other non-party Aggrieved Employees to perform tasks off-
5 the-clock, such as responding to phone communications from supervisors, completing online
6 trainings, and traveling to conduct employee training. Plaintiff and other non-party Aggrieved
7 Employees were required to use their personal cellular phones to complete their work-related
8 duties, such as communicating with supervisors to discuss tasks they had completed during
9 previous shifts. For example, Plaintiff spent one (1) hour each week off-the-clock responding
10 to phone calls from supervisors. Plaintiff and other non-party Aggrieved Employees were
11 also required to complete online trainings off-the-clock, such as medical emergency training
12 modules, but were not paid for this time. Additionally, other non-party Aggrieved Employees
13 were required to travel to Defendants' other restaurant locations to train new employees in-
14 person, but were not compensated for the time they spent traveling to these locations. Thus,
15 Defendants failed to track the time Plaintiff and other non-party Aggrieved Employees spent
16 responding to phone communications, completing mandatory online training, and/or traveling
17 to other restaurants for training, and thus, Plaintiff and other non-party Aggrieved Employees
18 received no compensation for this time.

19 65. Fourth, as stated, Defendants had, and continue to have, a company-wide policy
20 and/or practice of strictly staffing their restaurant locations based on the labor hours allocated
21 by corporate for each location. For example, Defendants limited the allocation of labor hours
22 for Plaintiff's restaurant to a weekly and monthly budget, but this allotment was insufficient to
23 staff the restaurant during its hours of operation, meet restaurant demands, and provide
24 adequate meal period coverage. Moreover, Defendants pressured Plaintiff and other non-party
25 Aggrieved Employees to reach certain food sales and prep goals, in order to meet customer
26 demand and satisfaction. Defendants' uniform use of labor budgets, combined with the
27 assignment of heavy workloads and sales goals, resulted in chronic understaffing and a failure
28 to provide Plaintiff and other non-party Aggrieved Employees with adequate meal period

1 coverage, because there were too few employees on duty to handle the workload and attend to
2 customers. Defendants also had a practice of failing to schedule or adhere to a schedule of
3 meal periods, which further caused Plaintiff and other non-party Aggrieved Employees to not
4 be relieved of their duties for compliant meal periods. As a result of this lack of meal period
5 coverage, Plaintiff and other non-party Aggrieved Employees were not always afforded 30-
6 minute meal periods during shifts when they were entitled to receive a meal period. For
7 example, Plaintiff occasionally worked through her meal periods entirely, and would also
8 work through 10-15 minutes of her meal periods three (3) times per week to input mobile
9 orders because there were not enough employees scheduled during her shifts to meet customer
10 demand.

11 66. Furthermore, upon information and belief, because Defendants frowned upon
12 employees accruing meal period penalties, Defendants adjusted employee time records to
13 reflect compliant meal periods, even when they did not receive a compliant meal period, in
14 order to strictly limit meal penalties that Defendants would otherwise owe. In addition,
15 Defendants' company-wide timekeeping system prevented Plaintiff and other non-party
16 Aggrieved Employees from recording all hours worked when their meal periods were
17 shortened or interrupted, because the system prevented employees from clocking back in from
18 a meal period until 30 minutes had elapsed. Thus, Defendants' timekeeping system prevented
19 Plaintiff and other non-party Aggrieved Employees from recording all hours worked when
20 their meal periods were missed, shortened, and/or interrupted.

21 67. Defendants knew or should have known that as a result of these company-wide
22 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
23 assigned duties off-the-clock before and after their shifts and during meal periods, and were
24 suffered or permitted to perform work for which they were not paid. Because Plaintiff and
25 other non-party Aggrieved Employees worked shifts of eight (8) hours a day or more or forty
26 (40) hours a week or more, some of this off-the-clock work qualified for overtime premium
27 pay. Therefore, Plaintiff and other non-party Aggrieved Employees were not paid overtime
28 wages for all of the overtime hours they actually worked.

1 68. Furthermore, Defendants did not pay other non-party Aggrieved Employees the
2 correct overtime rate for the recorded overtime hours that they generated. In addition to an
3 hourly wage, Defendants paid other non-party Aggrieved Employees incentive pay,
4 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
5 California Labor Code, Defendants failed to incorporate all compensation, including incentive
6 pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
7 regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during
8 times when other non-party Aggrieved Employees worked overtime and received these other
9 forms of pay, Defendants failed to pay all overtime wages by paying a lower overtime rate
10 than required.

11 69. For example, Defendants paid other non-party Aggrieved Employees
12 nondiscretionary bonuses and incentive pay. On information and belief, these
13 nondiscretionary bonuses were listed on other non-party Aggrieved Employees' wage
14 statements as "Bonus" and "Rehire Pay CV19." During pay periods that other non-party
15 Aggrieved Employees were paid overtime wages, Defendants failed to incorporate the
16 nondiscretionary bonuses and/or incentive pay into other non-party Aggrieved Employees'
17 regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime
18 hours worked. Specifically, Defendants paid other non-party Aggrieved Employees 1.5 times
19 their hourly rate of pay instead of 1.5 times their regular rate of pay. Defendants' failure to
20 properly calculate the overtime rates of pay based on all remuneration paid has resulted in an
21 underpayment of overtime wages to other non-party Aggrieved Employees on a company-
22 wide basis.

23 70. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
24 the balance of overtime compensation as required by California law, violates the provisions of
25 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
26 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
27 558 and/or 2699(a), (f), and (g).

28 //

1 **FAILURE TO PAY MINIMUM WAGES**

2 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

3 71. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
4 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
5 to be paid to employees, and the payment of a wage less than the minimum so fixed is
6 unlawful. Compensable work time is defined in Wage Order No. 5-2001 as “the time during
7 which an employee is subject to the control of an employer, and includes all the time the
8 employee is suffered or permitted to work, whether or not required to do so.” Cal. Code.
9 Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

10 72. As stated above, during the relevant time period, as a result of Defendants’
11 policy of limiting the amount of overtime employees could accrue, Plaintiff and other non-
12 party Aggrieved Employees were required to work off-the-clock before and after their
13 scheduled shift start and end times to complete assigned job duties. Moreover, as set forth
14 above, Defendants had a company-wide “on-call” policy, whereby they required Plaintiff and
15 other non-party Aggrieved Employees to wait to be called by the restaurant or to call in
16 themselves when scheduled for “on-call” or standby shifts. However, Defendants did not pay
17 Plaintiff and other non-party Aggrieved Employees at least minimum wages for the time they
18 spent calling in or waiting to see if they were needed at the restaurant. In addition, as set forth
19 above, Defendants required Plaintiff and other non-party Aggrieved Employees to perform
20 work off-the-clock, responding to phone communications from supervisors, completing
21 mandatory online trainings, and/or traveling to train employees in-person, but did not
22 compensate them for this time.

23 73. Additionally, as stated above, on information and belief, due to Defendants’
24 company-wide practice of utilizing labor budgets, assignment of heavy workloads and sales
25 goals, failure to schedule or adhere to a schedule of meal periods, and subsequent lack of meal
26 period coverage, Plaintiff and other non-party Aggrieved Employees were impeded from
27 taking all uninterrupted meal periods to which they were entitled and were required to work
28 off-the-clock. Finally, as set forth above, on information and belief, Defendants

1 systematically failed to pay Plaintiff and other non-party Aggrieved Employees for actual
2 hours worked during unpaid meal periods, because these hours were not always correctly
3 recorded.

4 74. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
5 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
6 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
7 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
8 1194, 1197, and 1198.

9 75. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
10 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
11 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
12 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

13 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
14 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

15 76. At all relevant times herein set forth, the applicable IWC Wage Order and
16 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
17 other non-party Aggrieved Employees' employment by Defendants.

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

26 78. At all relevant times herein set forth, California Labor Code sections 226.7,
27 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
28 meal period mandated by an applicable order of the IWC.

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

7 80. As stated above, Defendants had, and continue to have, a company-wide policy
8 and/or practice of understaffing their locations due to labor budgeting, which, combined with
9 the assignment of heavy workloads and sales goals and a failure to schedule or adhere to a
10 schedule of meal periods, has resulted in a lack of meal period coverage and prevented
11 Plaintiff and other non-party Aggrieved Employees from taking all timely, uninterrupted meal
12 periods to which they were entitled.

13 81. Moreover, as stated, upon information and belief, because Defendants frowned
14 upon employees accruing meal period penalties, Defendants' management would adjust
15 Plaintiff's and other non-party Aggrieved Employees' time records to reflect compliant meal
16 periods, regardless of whether they had received a compliant meal period, in order to strictly
17 limit meal penalties that would need to be paid by Defendants. Furthermore, as stated,
18 Defendants' company-wide timekeeping system prevented Plaintiff and other non-party
19 Aggrieved Employees from recording all hours worked when their meal periods were
20 shortened or interrupted, because the system locked out Plaintiff and other non-party
21 Aggrieved Employees once they clocked out for a meal period, and would not permit them to
22 clock back in from a meal period until 30 minutes had elapsed.

23 82. Defendants' practices and policies prevented Plaintiff and other non-party
24 Aggrieved Employees from taking all compliant meal periods to which they were entitled. As
25 a result, Plaintiff and other non-party Aggrieved Employees were forced to work in excess of
26 five (5) hours before taking a meal period, had their meal periods interrupted, and/or had to
27 forgo their meal periods altogether. For example, as stated, Plaintiff would work through 10-
28 15 minutes of her meal periods three (3) times per week to input mobile orders because there

1 were not enough employees scheduled during her shifts to meet customer demand. As a
2 further example, every shift, Plaintiff was forced to wait until after her fifth hour of work
3 before being able to take her meal period due to the lack of coverage available, resulting in
4 late meal periods.

5 83. Additionally, Defendants did not provide Plaintiff and other non-party
6 Aggrieved Employees with second 30-minute meal periods on days that they worked in excess
7 of ten (10) hours in one day. During her employment, Plaintiff worked at least one shift in
8 excess of ten (10) or more hours per day, but was not provided second 30-minute meal
9 periods. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period
10 waivers on days that they were entitled to meal periods and were not relieved of all duties.

11 84. Defendants knew or should have known that as a result of their policies and/or
12 practices, Plaintiff and other non-party Aggrieved Employees were not actually relieved of all
13 duties to take timely, uninterrupted meal periods. Defendants further knew or should have
14 known that they did not pay Plaintiff and other non-party Aggrieved Employees meal period
15 premiums when meal periods were missed, late, short, and/or interrupted.

16 85. Furthermore, Defendants engaged in a company-wide practice and/or policy of
17 not paying all meal period premiums owed when compliant meal periods are not provided.
18 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
19 have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to
20 the extent that Defendants did pay other non-party Aggrieved Employees premium pay for
21 missed, late, and interrupted meal periods, Defendants did not pay other non-party Aggrieved
22 Employees at the correct rate of pay for premiums because Defendants systematically failed to
23 include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or
24 other forms of remuneration, in the regular rate of pay.

25 86. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
26 Employees compliant meal periods and failed to pay the full meal period premiums due.
27 Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
28 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are

1 therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
2 2699(a), (f), and (g).

3 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**
4 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

5 87. At all relevant times herein set forth, the applicable IWC Wage Order and
6 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
7 non-party Aggrieved Employees' employment by Defendants.

8 88. At all relevant times, the applicable IWC Wage Order provides that "[e]very
9 employer shall authorize and permit all employees to take rest periods, which insofar as
10 practicable shall be in the middle of each work period" and that the "rest period time shall be
11 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
12 hours or major fraction thereof" unless the total daily work time is less than three and one-half
13 (3½) hours.

14 89. At all relevant times, California Labor Code section 226.7 provides that no
15 employer shall require an employee to work during any rest period mandated by an applicable
16 order of the California IWC. To comply with its obligation to authorize and permit rest
17 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
18 employer must "relinquish any control over how employees spend their break time, and
19 relieve their employees of all duties—including the obligation that an employee remain on
20 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
21 *Inc.*, 2 Cal. 5th 257, 269-270 (2016).

22 90. Pursuant to the applicable IWC Wage Order and California Labor Code section
23 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
24 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
25 required rest period was not authorized and permitted.

26 91. During the relevant time period, Defendants regularly failed to authorize and
27 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
28 period per each four (4) hour period worked or major fraction thereof. As with meal periods,

1 Defendants' company-wide practices, including utilizing labor budgets and assigning heavy
2 workloads and sales goals, prevented Plaintiff and other non-party Aggrieved Employees from
3 being relieved of all duty to take their rest periods. Additionally, Defendants failed to
4 schedule or adhere to a schedule of rest periods, which, coupled with Defendants' failure to
5 provide adequate rest period coverage, further led to Plaintiff and other non-party Aggrieved
6 Employees not being authorized and permitted to take compliant rest periods.

7 92. Furthermore, upon information and belief, Defendants maintained a company-
8 wide on-premises rest period policy, which mandated that Plaintiff and other non-party
9 Aggrieved Employees remain on Defendants' premises during their rest periods. Because
10 Plaintiff and other non-party Aggrieved Employees were restricted from leaving the premises
11 during rest periods, they were denied the ability to use their rest periods freely for their own
12 purposes, such as running personal errands. Thus, Defendants effectively maintained control
13 over Plaintiff and other non-party Aggrieved Employees during rest periods.

14 93. As a result of Defendants' practices and policies, Plaintiff and other non-party
15 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
16 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
17 were entitled. For example, Plaintiff missed her rest periods five (5) times per week to due to
18 the lack of rest period coverage. As a further example, even when Plaintiff was afforded a
19 rest period, 3-4 times per week, she would be interrupted by her supervisors and asked to
20 return early from her rest period to attend to customers.

21 94. Defendants have also engaged in a company-wide practice and/or policy of not
22 paying all rest period premiums owed when compliant rest periods are not authorized and
23 permitted. Alternatively, to the extent that Defendants did pay other non-party Aggrieved
24 Employees one (1) additional hour of premium pay for missed rest periods, Defendants did
25 not pay other non-party Aggrieved Employees at the correct rate of pay for premiums because
26 Defendants failed to include all forms of compensation, such as incentive pay,
27 nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

28 95. Defendants' conduct violates the applicable IWC Wage Order and California

1 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
2 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
3 558 and/or 2699(a), (f), and (g).

4 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
5 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

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

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

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

1 99. Furthermore, because Defendants did not calculate other non-party Aggrieved
2 Employees' regular rate of pay correctly for purposes of paying overtime, Defendants did not
3 list the correct amount of gross wages in compliance with section 226(a)(1). For the same
4 reason, Defendants also failed to list the correct amount of net wages 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, in violation of section 226(a)(9).

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

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

1 failure to provide Plaintiff and other non-party Aggrieved Employees with second 30-minute
2 meal periods to which they were entitled, Defendants kept no records of meal start and end
3 times for second meal periods.

4 102. 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. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500
11 civil penalty if they fail to maintain accurate and complete records as required by section
12 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
13 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-
14 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto
15 as a result of failing to record the off-the-clock hours that they worked.

16 103. Defendants’ conduct violates California Labor Code sections 226(a), 1174(d),
17 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
18 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

19 **FAILURE TO PRODUCE AND/OR PERMIT INSPECTION OF RECORDS AND**
20 **INSTRUMENTS SIGNED**

21 **VIOLATION OF LABOR CODE SECTIONS 226(b)-(c), 432, AND 1198.5**

22 104. At all relevant times herein, California Labor Code section 226(b) provides that
23 every employer shall furnish current and former employees the right to inspect or copy
24 records pertaining to their employment, upon reasonable request to the employer. Labor Code
25 Section 226(c) provides that an employer must comply with a request made pursuant to Labor
26 Code section 226(b) no later than 21 calendar days from the date of the employee’s request.

27 105. At all times relevant herein, California Labor Code section 432 states, “[i]f an
28 employee or applicant signs any instrument relating to the obtaining or holding of

1 employment, he shall be given a copy of the instrument upon request.” California Labor Code
2 section 433 states, “[a]ny person violating this article is guilty of a misdemeanor.”

3 106. At all times relevant herein, California Labor Code section 1198.5 requires that
4 an employer provide a copy of an employee’s personnel record no later than 30 days from the
5 date the employer receives a written request.

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

21 108. During the relevant time period, other non-party Aggrieved Employees sent
22 Defendants reasonable written requests for documents and records relating to their
23 employment with Defendants. During the relevant time period, Defendants failed to produce
24 for inspection and copying or otherwise permit inspection and copying of documents and
25 records relating to other non-party Aggrieved Employees’ employment. Over 21 days have
26 passed from the date that other non-party Aggrieved Employees sent Defendants a reasonable
27 written request for documents and records relating to their employment, and Defendants have
28 failed to comply with the requests in violation of Labor Code section 226(b) and the

1 applicable IWC Wage Order.

2 109. Other non-party Aggrieved Employees are therefore entitled to recover civil
3 penalties pursuant to Labor Code sections 226(f), 1198.5(k), and/or 2699(a), (f), and (g).

4 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

5 **VIOLATION OF LABOR CODE SECTION 204**

6 110. At all relevant times herein set forth, California Labor Code section 204
7 requires that all wages earned by any person in any employment between the 1st and the 15th
8 days, inclusive, of any calendar month, other than those wages due upon termination of an
9 employee, are due and payable between the 16th and the 26th day of the month during which
10 the labor was performed. Labor Code section 204 further provides that all wages earned by
11 any person in any employment between the 16th and the last day, inclusive, of any calendar
12 month, other than those wages due upon termination of an employee, are due and payable
13 between the 1st and the 10th day of the following month.

14 111. At all relevant times herein, California Labor Code section 204 also requires
15 that all wages earned for labor in excess of the normal work period shall be paid no later than
16 the payday for the next regular payroll period. Alternatively, at all relevant times herein,
17 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
18 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
19 more than seven (7) calendar days following the close of the payroll period.

20 112. During the relevant time period, Defendants failed to pay Plaintiff and other
21 non-party Aggrieved Employees all wages due to them within any time period specified by
22 California Labor Code section 204 including, but not limited to, overtime wages, minimum
23 wages, meal and rest period premiums, and/or reporting time pay.

24 113. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
25 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

26 **FAILURE TO PAY WAGES UPON TERMINATION**

27 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

28 114. At all times relevant herein set forth, California Labor Code sections 201 and

202 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.

115. On information and belief, Defendants have a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. Additionally, Defendants willfully failed to pay Plaintiff and other non-party Aggrieved Employees who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

116. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ, violates California Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and (g).

FAILURE TO PROVIDE PAID SICK LEAVE BENEFITS

VIOLATION OF LABOR CODE SECTION 246

117. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code

1 sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an
2 employer must provide an employee with written notice that sets forth the amount of paid sick
3 leave available, or paid time off that an employer provides in lieu of sick leave, for use on
4 either the employee's itemized wage statement or in a separate written statement provided on
5 the designated pay date with the employee's wages. The penalties described in this article for
6 a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

7 118. Plaintiff and other non-party Aggrieved Employees worked in excess of 30
8 days for Defendants in California and were therefore eligible to receive paid sick leave.
9 During the relevant time period, Defendants systematically failed to provide Plaintiff and
10 other non-party Aggrieved Employees paid sick leave of no less than 24 hours or three (3)
11 days because Defendants failed to record and include all hours worked by Plaintiff and other
12 non-party Aggrieved Employees for purposes of calculating the accrual of sick leave benefits.
13 As a result, Defendants failed to provide Plaintiff and other non-party Aggrieved Employees
14 with the correct amount of paid sick leave benefits, in violation of section 246(b)(1)-(4).

15 119. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
16 recover civil penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

17 **FAILURE TO PROVIDE ONE DAY'S REST IN SEVEN**

18 **VIOLATION OF LABOR CODE SECTIONS 551, 552, and 558**

19 120. At all relevant times herein, California Labor Code section 551 provides that
20 every person employed in any occupation of labor is entitled to one day's rest in seven.
21 Additionally, California Labor Code section 552 prohibits employers from requiring
22 employees to work more than six consecutive days without a day of rest.

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

26 122. Labor Code section 558(a) provides "[a]ny employer or other person acting on
27 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
28 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.”

123. During the relevant time period, on information and belief, Defendants scheduled other non-party Aggrieved Employees to work eight (8) or more hours per day and more than six (6) consecutive days in a workweek. Because other non-party 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 non-party Aggrieved Employees may have signed purported waivers of their right to a day’s rest in seven, such waivers are invalid.

124. Thus, during the relevant time period, and in violation of Labor Code sections 551 and 552, Defendants caused other non-party Aggrieved Employees to work more than six days in seven. Other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PAY REPORTING TIME PAY

VIOLATION OF LABOR CODE SECTION 1198

125. 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.”

126. The applicable IWC Wage Order, 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

1 usual or scheduled day's work, the employee shall be paid for half the usual or scheduled
2 day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the
3 employee's regular rate of pay, which shall not be less than the minimum wage."

4 127. During the relevant time period, Defendants violated California Labor Code
5 section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because
6 Defendants failed to pay Plaintiff and other non-party Aggrieved Employees reporting time
7 pay when they reported to work for their scheduled shift but were put to work for less than
8 half of the regularly scheduled day's work.

9 128. First, as described above, Defendants had a company-wide "on-call" policy,
10 whereby they scheduled Plaintiff and other non-party Aggrieved Employees to work "on-
11 call," or on standby. When scheduled for an "on-call" or standby shift, Plaintiff and other
12 non-party Aggrieved Employees regularly presented themselves as ready for work by waiting
13 for the restaurant to call them 30 minutes before their scheduled standby shift or by calling
14 into the restaurant themselves one (1) hour prior to their scheduled standby shift and would
15 await instructions on whether to report to the restaurant, but were ultimately told not to come
16 in. When this occurred, Defendants did not pay Plaintiff and other non-party Aggrieved
17 Employees for at least half of their scheduled day's work or the minimum reporting time pay
18 when they were subject to Defendants' "on-call" policy and were ultimately not called.

19 129. Second, Defendants had a company-wide practice of sending Plaintiff and other
20 non-party Aggrieved Employees home early from their shifts, including before they had
21 worked at least half of their regular shift, but would not pay Plaintiff and other non-party
22 Aggrieved Employees for half of their scheduled shift. For example, when scheduled to work
23 an eight (8) hour shift, Plaintiff was sent home after two (2) hours because work was slow, but
24 was only paid for the time that she had worked. Although Plaintiff and other non-party
25 Aggrieved Employees would report to work based on the schedule that Defendants provided
26 to them, Defendants would send them home before they had worked at least half of their
27 scheduled shifts without giving them reporting time pay. Accordingly, Plaintiff and other
28 non-party Aggrieved Employees were not properly compensated with reporting time pay in

1 violation of California Labor Code section 1198.

2 130. Accordingly, Plaintiff and other non-party Aggrieved Employees were not
3 properly compensated with reporting time pay in violation of the applicable IWC Wage Order
4 and California Labor Code section 1198. Plaintiff and other non-party Aggrieved Employees
5 are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f),
6 and (g).

7 **FAILURE TO PROVIDE SUITABLE SEATING**
8 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
9 **REGULATIONS, TITLE 8, SECTION 11050(14)(B)**

10 131. At all relevant times herein, California Labor Code section 1198 makes it
11 illegal to employ an employee under conditions of labor that are prohibited by the applicable
12 wage order. California Labor Code section 1198 requires that “. . . the standard conditions of
13 labor fixed by the commission shall be the . . . standard conditions of labor for employees.
14 The employment of any employee . . . under conditions of labor prohibited by the order is
15 unlawful.”

16 132. California Code of Regulations, Title 8, section 11050(14)(B) provides that
17 “[w]hen employees are not engaged in the active duties of their employment and the nature of
18 the work requires standing, an adequate number of suitable seats shall be placed in reasonable
19 proximity to the work area and employees shall be permitted to use such seats when it does
20 not interfere with the performance of their duties.”

21 133. During the relevant time period, Defendants violated California Labor Code
22 section 1198 and California Code of Regulations, Title 8, section 11050(14)(B), because
23 Plaintiff and other non-party Aggrieved Employees were not allowed to sit, even during lulls
24 in their work duties, nor were they provided with suitable seats in reasonable proximity to
25 their work areas.

26 134. On information and belief, Defendants’ California restaurants are generally
27 similar in their layout and design and there was, and continues to be, space near their work
28 areas (with reasonable or no modification to these work areas) to allow for the presence and

1 use of a seat or stool by Plaintiff and other non-party Aggrieved Employees during lulls in
2 operation. Defendants could have provided Plaintiff and other non-party Aggrieved
3 Employees with a seat or stool in their work areas, but instead denied Plaintiff and other non-
4 party Aggrieved Employees suitable seating altogether and effectively forced Plaintiff and
5 other non-party Aggrieved Employees to stand throughout the day.

6 135. Defendants did not provide Plaintiff and other non-party Aggrieved Employees
7 with seats or stools in reasonable proximity to their work areas to allow them to use seats
8 when it would not interfere with the performance of their duties for times when they were not
9 engaged in active duties that require standing. In other words, to the extent Plaintiff and other
10 non-party Aggrieved Employees engaged in duties in which the nature of the work required
11 standing, Defendants denied them the use of suitable seats nearby during lulls in their work
12 duties. Moreover, Defendants did not inform Plaintiff and other non-party Aggrieved
13 Employees of their rights to a seat or stool under California law.

14 136. As a result of Defendants' company-wide policy and/or practice prohibiting
15 employees from sitting at any time, even when they were not engaged in active duties
16 requiring standing, and company-wide failure to provide seats in reasonable proximity to their
17 work areas, Plaintiff and other non-party Aggrieved Employees were forced to stand during
18 shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other
19 non-party Aggrieved Employees violated and continues to violate California Labor Code
20 section 1198 and IWC Wage Order 5-2001, Section 14(B).

21 137. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
22 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

23 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

24 **VIOLATION OF LABOR CODE SECTION 2802**

25 138. At all times herein set forth, California Labor Code section 2802 provides that
26 an employer must reimburse employees for all necessary expenditures and losses incurred by
27 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
28 to prevent employers from passing off their cost of doing business and operating expenses on

1 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
2 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: "[w]hen tools or
3 equipment are required by the employer or are necessary to the performance of a job, such
4 tools and equipment shall be provided and maintained by the employer, except that an
5 employee whose wages are at least two (2) times the minimum wage provided herein may be
6 required to provide and maintain hand tools and equipment customarily required by the trade
7 or craft."

8 139. First, during the relevant time period, Defendants had a company-wide policy
9 of requiring Plaintiff and other non-party Aggrieved Employees to utilize their own personal
10 cellular phones to carry out their job duties, but Defendants failed to reimburse them for the
11 costs of their work-related cellular phone expenses. Plaintiff and other non-party Aggrieved
12 Employees were required to use their personal cellular phones for work-related tasks,
13 including responding to calls from supervisors and calling in to the restaurant when scheduled
14 for "on-call" shifts. For example, as stated, Plaintiff spent one (1) hour each week off-the-
15 clock to discuss with her supervisors the tasks she had completed during previous shifts.
16 Although Defendants required Plaintiff and other non-party Aggrieved Employees to utilize
17 their personal cellular phones to carry out their work-related duties, Defendants failed to
18 reimburse them for this cost.

19 140. Second, Defendants had a company-wide policy of requiring Plaintiff and other
20 non-party Aggrieved Employees to utilize their own personal vehicles or obtain alternate
21 transportation to carry out company business, but failed to reimburse them for all costs of
22 travel, including mileage. For example, Defendants required Plaintiff to drive to grocery
23 stores in the surrounding area once per month to obtain restaurant ingredients, such as oil and
24 pepper. As a further example, Plaintiff was twice required to travel 10 miles roundtrip to and
25 from Defendants' restaurant in Encinitas, California, during her shifts, to help staff this
26 location. Although Defendants required Plaintiff and other non-party Aggrieved Employees
27 to use their own personal vehicles or obtain alternate transportation to complete their work-
28 related duties, Defendants never reimbursed them for their travel expenses.

1 141. Third, during the relevant time period, Defendants, on a company-wide basis,
2 forced other non-party Aggrieved Employees to purchase their own tools and supplies in order
3 to complete their work-related duties. For example, other non-party Aggrieved Employees
4 were required to purchase and use their own tools in order to perform their job duties, such as
5 cooking and making store repairs. Although Defendants required other non-party Aggrieved
6 Employees to purchase and use their own tools and supplies in the performance of their duties,
7 Defendants did not reimburse them for these expenses.

8 142. Fourth, Defendants, on a company-wide basis, expected Plaintiff and other non-
9 party Aggrieved Employees to report to work wearing clean uniforms, including a uniform
10 shirt and hat embroidered with Defendants' logo, while simultaneously failing to provide
11 employees with an adequate number of those uniforms. This forced Plaintiff and other non-
12 party Aggrieved Employees to clean their uniforms frequently and incur expenses for doing
13 so. For example, Plaintiff was only provided three (3) uniform shirts and one (1) uniform hat,
14 despite being scheduled to work five (5) or more days each week. In addition, due to the
15 nature of their work, Plaintiff's and other non-party Aggrieved Employees' uniforms would
16 become stained and/or acquire an unpleasant odor, and Plaintiff and other non-party
17 Aggrieved Employees would be required to wash and clean their uniforms more frequently
18 than they would otherwise, further increasing their overall laundry costs.

19 143. Defendants could have provided Plaintiff and other non-party Aggrieved
20 Employees with the actual tools for use on the job, such as company phones and company
21 vehicles, and an adequate number of uniforms and/or access to laundering services. Or,
22 Defendants could have reimbursed employees for the costs of their cellular phones, mileage,
23 travel, and laundering expenses. Instead, Defendants passed these operating costs off onto
24 Plaintiff and other non-party Aggrieved Employees. At all relevant times, Plaintiff did not
25 earn at least two (2) times the minimum wage.

26 144. Defendants' company-wide policy and/or practice of passing on their operating
27 costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code
28 section 2802. Defendants have intentionally and willfully failed to reimburse Plaintiff and

1 other non-party Aggrieved Employees for necessary business-related expenses and costs.

2 145. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
3 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

4 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
5 **EMPLOYMENT**

6 **VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

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

18 147. During the relevant time period, Defendants failed to provide Plaintiff and
19 other non-party Aggrieved Employees with written notice that lists all the requisite
20 information set forth in Labor Code section 2810.5(a)(1)(A)-(C).

21 148. Defendants' failure to provide Plaintiff and other non-party Aggrieved
22 Employees with written notice of basic information regarding their employment with
23 Defendants is in violation of California Labor Code section 2810.5. Plaintiff and other
24 non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to
25 Labor Code sections 2699(a), (f), and (g).

26 **REQUEST FOR JURY TRIAL**

27 Plaintiff requests a trial by jury.

28 //

1 **PRAYER FOR RELIEF**

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

4 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
5 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different
6 amount.

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

8 2. That the Court declare, adjudge and decree that Defendants violated the
9 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
10 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
11 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516,
12 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
13 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
14 statements and maintain accurate payroll records); 226(b)-(c), 432, and 1198.5 (by failing to
15 produce copies or allow inspection of records and instruments signed); 204 (by failing timely
16 to pay all earned wages during employment); 201, 202, and 203 (by failing timely to pay all
17 earned wages upon termination); 246 (by failing to provide sick leave benefits); 551 and 552
18 (by failing to provide one day's rest in seven); 1198 (by failing to provide reporting time pay);
19 1198 (by failing to provide suitable seating); 2802 (by failing to reimburse business
20 expenses); and 2810.5 (by failing to provide written notice of information material to
21 employment);

22 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
23 558, 1174.5, 1198.5(k), and 2699(a), (f), and (g), for violations of California Labor Code
24 sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432, 510, 512(a), 516, 551, 552, 1174(d),
25 1182.12, 1194, 1197, 1198, 1198.5, 2802, and 2810.5;

26 4. For attorneys' fees and costs pursuant to California Labor Code section
27 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
28 Labor Code sections 201, 202, 203, 204, 226(a)-(c), 226.7, 246, 432, 510, 512(a), 516, 551,

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552, 1174(d), 1182.12, 1194, 1197, 1198, 1198.5, 2802, and 2810.5;

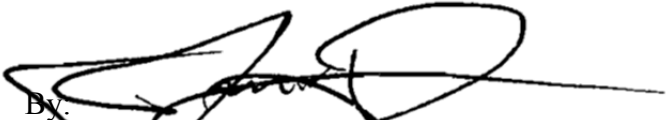
5. For pre-judgment and post-judgment interest as provided by law; and

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

Dated: April 30, 2021

Respectfully submitted,

Capstone Law APC



By: Robert Drexler
Molly DeSario
Jonathan Lee
Helga Hakimi

Attorneys for Plaintiff Jessica Samaniego

Exhibit 1

JULIAN QUATTLEBAUM
310.712.8154 Direct
Julian.Quattlebaum@capstonelawyers.com

February 23, 2021

VIA ONLINE SUBMISSION

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

Subject: *Jessica Samaniego v. Cava Mezze Grill, LLC, et al.*

Dear PAGA Administrator:

This office represents Jessica Samaniego in connection with her claims under the California Labor Code. Ms. Samaniego was an employee of CAVA MEZZE GRILL, LLC; CAVA FOODS, LLC; CAVA GROUP, INC.; and/or CAVA HOLDING COMPANY. For the purpose of this letter, Ms. Samaniego collectively refers to these entities as “CAVA.”

The employers may be contacted directly at the addresses below:

CAVA MEZZE GRILL, LLC
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001

CAVA FOODS, LLC
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001

CAVA GROUP, INC.
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001

CAVA HOLDING COMPANY
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001

Ms. Samaniego intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Samaniego seeks relief on behalf of herself, the State of California, and other persons who are or were employed by CAVA 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.

CAVA employed Ms. Samaniego as an hourly paid, non-exempt Team Member from approximately July 2019 to June 2020. Ms. Samaniego worked for CAVA at its Cava Grill restaurant located at 3722 Paseo Place, Suite 1400, San Diego, California 92130. During her employment, Ms. Samaniego typically worked 8-10 hours per day and 5-6 days per week, from 4:00 p.m. to 12:00 a.m. or later. At the time Ms. Samaniego’s employment with CAVA ended, she earned approximately

\$13.00 per hour. Her job duties included, without limitation, preparing food, inputting online food orders, attending to customers, and cleaning and maintaining the restaurant premises.

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

CAVA’s Company-Wide and Uniform Payroll and HR Practices

CAVA MEZZE GRILL, LLC and CAVA FOODS, LLC are Maryland limited liability companies. CAVA GROUP, INC. is a corporation of unknown origin, and CAVA HOLDING COMPANY is a Delaware corporation. Together, CAVA owns and operates a chain of Mediterranean restaurants throughout the United States. Upon information and belief, CAVA maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Washington, D.C., for all non-exempt, hourly paid employees working for CAVA in California, including Ms. Samaniego and other aggrieved employees. At all relevant times, CAVA issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Samaniego and other aggrieved employees, regardless of its location or position.

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

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

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

CAVA willfully failed to pay all overtime wages owed to Ms. Samaniego and other aggrieved employees. During the relevant time period, Ms. Samaniego 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 period, upon information and belief, CAVA had, and continues to have, a company-wide policy of discouraging and impeding Ms. Samaniego 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 CAVA's use of labor budgets and assignment of heavy workloads and sales goals (*see infra*), led Ms. Samaniego 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, 3-5 times per week, Ms. Samaniego was instructed by her supervisors to arrive 10-15 minutes prior to the start of her scheduled shift and work off-the-clock to help wash dishes, sweep floors, and clean the restroom to prepare the restaurant for the upcoming shift. As a further example, after every shift, Ms. Samaniego was instructed to clock out and continue spending 10-30 minutes disposing of trash, sweeping and mopping floors, and completing other tasks at her supervisors' request. When this occurred, Ms. Samaniego was told by her supervisors that she could not remain clocked in for these tasks because CAVA did not want employees to accrue overtime. At all times, Ms. Samaniego and other aggrieved employees remained under the control of CAVA. CAVA could have recorded this off-the-clock work, but refused to do so to avoid paying Ms. Samaniego and other aggrieved employees overtime wages.

Second, during the relevant period, CAVA had a company-wide "on-call" policy, whereby it scheduled Ms. Samaniego and other aggrieved employees to work "on-call," or on standby. These "on-call" shifts worked to CAVA's benefit and to the detriment of Ms. Samaniego and other aggrieved employees. By utilizing "on-call" shifts, CAVA received the benefit of being able to maximize revenue by having a standby workforce it could choose to utilize or not, depending on restaurant traffic and sales metrics, without incurring the cost of compensating employees who show up to work and work a full or partial scheduled day's work.

When scheduled for an "on-call" or standby shift, Ms. Samaniego and other aggrieved employees were required to wait for the restaurant to call them 30 minutes prior to their scheduled standby shift or to call the restaurant themselves one (1) hour before their scheduled standby shift to see if they were required to come in and work. Ms. Samaniego and other aggrieved employees were engaged to wait and could not engage in personal activities as they had to be ready to travel to their respective restaurant locations on short notice and work their standby shift. When scheduled to be "on-call" for a standby shift, Ms. Samaniego and other aggrieved employees were controlled by CAVA because they were forced to put their lives on hold and could not use that time freely for their own purposes. For example, Ms. Samaniego refrained from making plans altogether while "on-call" for a standby shift because she knew that she had to drop whatever she was doing at a moment's notice if she was instructed to work her standby shift. CAVA did not pay Ms. Samaniego and other aggrieved employees for the time they spent waiting to hear whether they needed to report for work at their restaurant locations on days they ultimately were not called in. CAVA also did not compensate Ms. Samaniego and other aggrieved employees for the time they spent calling in to see if they were needed.

Third, CAVA had, and continues to have, a company-wide policy and/or practice of requiring Ms. Samaniego and other aggrieved employees to perform tasks off-the-clock, such as responding to phone communications from supervisors, completing online trainings, and traveling to conduct employee training. Ms. Samaniego and other aggrieved employees were required to use their personal cellular phones to complete their work-related duties, such as communicating with supervisors to discuss tasks they had completed during previous shifts. For example, Ms. Samaniego spent one (1) hour each week off-the-clock responding to phone calls from supervisors. Ms. Samaniego and other aggrieved employees were also required to complete online trainings, such as medical emergency training modules, off-the-clock, but were not paid for this time. Additionally, other aggrieved employees were required to travel to other CAVA restaurants to train new employees in-person, but were not compensated for the time they spent traveling to these locations. Thus, CAVA failed to track the time Ms. Samaniego and other aggrieved employees spent responding to phone communications, completing mandatory online training, and traveling to other restaurants, and thus, Ms. Samaniego and other aggrieved employees received no compensation for this time.

Fourth, as stated, CAVA had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by corporate for each location. For example, CAVA limited the allocation of labor hours for Ms. Samaniego's restaurant to a weekly and monthly budget, but this allotment was insufficient to staff the restaurant during its hours of operation, meet restaurant demands, and provide adequate meal period coverage. Moreover, CAVA pressured Ms. Samaniego and other aggrieved employees to reach certain food sales and prep goals, in order to meet customer demand and satisfaction. CAVA's uniform use of labor budgets, combined with heavy workloads and sales goals, resulted in chronic understaffing and a failure to provide Ms. Samaniego and other aggrieved employees with adequate meal period coverage, because there were too few employees on duty to handle the workload and attend to customers. CAVA also had a practice of failing to schedule or adhere to a schedule of meal periods, which further caused Ms. Samaniego 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, Ms. Samaniego 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, Ms. Samaniego has occasionally worked through her meal periods entirely, and would also work through 10-15 minutes of her meal periods three (3) times per week to input mobile orders because there were not enough employees scheduled during her shifts to meet customer demand.

Furthermore, upon information and belief, because CAVA frowned upon employees accruing meal period penalties, CAVA adjusted employee time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit meal penalties that CAVA would otherwise owe. In addition, CAVA's company-wide timekeeping system prevented Ms. Samaniego and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system prevented employees from clocking back in from a meal period until 30 minutes had elapsed. Thus, CAVA's timekeeping system prevented Ms. Samaniego and other aggrieved employees from recording all hours worked when their meal periods were missed, shortened, and/or interrupted.

CAVA knew or should have known that as a result of these company-wide practices and/or policies, Ms. Samaniego and other aggrieved employees were performing assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Samaniego 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, Ms. Samaniego and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

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

For example, CAVA paid other aggrieved employees nondiscretionary bonuses and incentive pay. On information and belief, these nondiscretionary bonuses were listed on other aggrieved employees' wage statements as "Bonus" and "Rehire Pay CV19." During pay periods that other aggrieved employees were paid overtime wages, CAVA failed to incorporate the nondiscretionary bonuses and/or incentive pay into 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, CAVA paid other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. CAVA's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to other aggrieved employees on a company-wide basis.

CAVA's failure to pay Ms. Samaniego and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Samaniego 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 above, during the relevant time period, as a result of CAVA's policy of limiting the amount of overtime employees could accrue, Ms. Samaniego 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, CAVA required Ms. Samaniego and other aggrieved employees to perform work off-the-clock, responding to phone communications from supervisors, completing mandatory online trainings, and traveling to train employees in-person, but did not compensate them for this time. Moreover, as set forth above, CAVA had a company-wide "on-call" policy, whereby it required Ms. Samaniego and other aggrieved employees to wait to be called by the restaurant or to call in themselves when scheduled for "on-call" or standby shifts. However, CAVA

did not pay Ms. Samaniego and other aggrieved employees at least minimum wages for the time they spent calling in or waiting to see if they were needed at the restaurant.

Additionally, as stated above, on information and belief, due to CAVA's company-wide practice of utilizing labor budgets, assignment of heavy workloads and sales goals, failure to schedule or adhere to a schedule of meal periods, and subsequent lack of meal period coverage, Ms. Samaniego 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. Finally, as set forth above, on information and belief, CAVA systematically failed to pay Ms. Samaniego and other aggrieved employees for actual hours worked during unpaid meal periods, because these hours were not always correctly recorded.

Thus, CAVA did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. To the extent that these off-the-clock hours did not qualify for overtime premium payment, CAVA 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, CAVA regularly failed to pay at least minimum wages to Ms. Samaniego and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Ms. Samaniego 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.

As stated above, CAVA had, and continues to have, a company-wide policy and/or practice of understaffing its locations due to labor budgeting, which, combined with the assignment of heavy workloads and sales goals, and a failure to schedule or adhere to a schedule of meal periods, has resulted in a lack of meal period coverage and prevented Ms. Samaniego and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled.

Moreover, as stated, upon information and belief, because CAVA frowned upon employees accruing meal period penalties, CAVA's management would adjust Ms. Samaniego's and other aggrieved employees' 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 would need to be paid by CAVA. Furthermore, as stated, CAVA's company-wide timekeeping system prevented Ms. Samaniego and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Ms. Samaniego and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period until 30 minutes had elapsed.

CAVA's practices and policies prevented Ms. Samaniego and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Ms. Samaniego and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, as stated, Ms. Samaniego would work through 10-15 minutes of her meal periods three (3) times per week to input mobile orders because there were not enough employees scheduled during her shifts to meet customer demand. As a further example, every shift, Ms. Samaniego was forced to wait until after her fifth hour of work before being able to take her meal period due to the lack of coverage available, resulting in late meal periods.

Additionally, CAVA did not provide Ms. Samaniego and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. During her employment, Ms. Samaniego worked at least one shift in excess of ten (10) or more hours per day, but was not provided second 30-minute meal periods. Ms. Samaniego 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.

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

Furthermore, CAVA 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, other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that CAVA did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, CAVA did not pay other aggrieved employees at the correct rate of pay for premium wages because CAVA 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, CAVA failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Samaniego and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, CAVA regularly failed to authorize and permit Ms. Samaniego 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, CAVA's company-wide practices, including utilizing labor budgets and assigning heavy workloads and sales goals, prevented Ms. Samaniego and other aggrieved employees from being relieved of all duty to take their rest periods. Additionally, CAVA failed to schedule or adhere to a schedule of rest periods, which, coupled with CAVA's failure to provide adequate rest period coverage, further led to Ms. Samaniego and other aggrieved employees not being authorized and permitted to take compliant rest periods.

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

As a result of CAVA's practices and policies, Ms. Samaniego and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Samaniego missed her rest periods five (5) times per week due to the lack of coverage. As a further example, even when Ms. Samaniego was afforded a rest period, 3-4 times per week, she would be interrupted by her supervisors and asked to return early from her rest period to attend to customers.

CAVA 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. Alternatively, to the extent that CAVA did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, CAVA did not pay other aggrieved employees at the correct rate of pay for

premium wages because CAVA 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, CAVA failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Samaniego 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, 432, and 1198.5 – Failure to Produce and/or Permit Inspection of Records and Instruments Signed

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

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

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

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

During the relevant time period, other aggrieved employees sent CAVA reasonable written requests for documents and records relating to their employment with CAVA. During the relevant time period, CAVA failed to produce for inspection and copying or otherwise permit inspection and copying of documents and records relating to other aggrieved employees' employment. Over 21 days have passed from the date that other aggrieved employees sent CAVA a reasonable written request for documents and records relating to their employment, and CAVA has failed to comply with the requests in violation of Labor Code section 226(b) and the applicable IWC Wage Order.

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226(f) and (h), 1198.5(k)-(l), and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 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. CAVA has not provided Ms. Samaniego 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 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, CAVA has knowingly and intentionally provided Ms. Samaniego and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CAVA issued uniform wage statements to Ms. Samaniego 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, CAVA violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because CAVA did not record the time Ms. Samaniego 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), CAVA did not list the correct amount of gross wages and net wages earned by Ms. Samaniego and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, CAVA failed to accurately list the total number of hours worked by Ms. Samaniego 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).

Furthermore, because CAVA did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime, CAVA did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, CAVA also failed to list the correct amount of net wages in violation of section 226(a)(5). CAVA 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), CAVA willfully failed to maintain accurate payroll records for Ms. Samaniego 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, CAVA failed, on a company-wide basis, to keep accurate records of work and meal period start and stop times for Ms. Samaniego and other aggrieved employees, in violation of section 1198. As stated, CAVA engaged in a company-wide practice and/or policy of falsifying Ms. Samaniego’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Samaniego and other aggrieved employees. Furthermore, in light of CAVA’s failure to provide Ms. Samaniego and other aggrieved employees with second 30-minute meal periods to which they were entitled, CAVA kept no records of meal start and end times for second meal periods.

Because CAVA failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Samaniego and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Samaniego and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Samaniego 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, CAVA willfully failed to pay Ms. Samaniego and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premium wages, and/or reporting time pay, within the time periods specified by California Labor Code section 204.

Ms. Samaniego 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.

On information and belief, CAVA has a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. Additionally, CAVA willfully failed to pay Ms. Samaniego and other aggrieved employees who are no longer employed by CAVA the earned and unpaid wages set forth above, 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 CAVA's employ, in violation of Labor Code section 201, 202, and 203.

Ms. Samaniego and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Failure to Provide Paid Sick Leave Benefits and Written Notice of Paid Sick Leave Benefits

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with

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

Ms. Samaniego and other aggrieved employees worked in excess of 30 days for CAVA in California and were therefore eligible to receive paid sick leave. During the relevant time period, CAVA systematically failed to provide Ms. Samaniego and other aggrieved employees paid sick leave of no less than 24 hours or three (3) days because CAVA failed to record and include all hours worked by Ms. Samaniego and other aggrieved employees for purposes of calculating the accrual of sick leave benefits. As a result, CAVA failed to provide Ms. Samaniego and other aggrieved employees with the correct amount of paid sick leave benefits, in violation of section 246(b)(1)-(4).

Ms. Samaniego and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 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, CAVA 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, CAVA 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 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, CAVA violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because CAVA failed to pay Ms. Samaniego and/or other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day’s work.

First, as described above, CAVA had a company-wide “on-call” policy, whereby it scheduled Ms. Samaniego and other aggrieved employees to work ““on-call,” or on standby. When scheduled for a “on-call” or standby shift, Ms. Samaniego and other aggrieved employees regularly presented themselves as ready for work by waiting for the restaurant to call them 30 minutes before their scheduled standby shift or by calling into the restaurant themselves one (1) hour prior to their scheduled standby shift and would await instructions on whether to report to the restaurant, but were ultimately told not to come in. when this occurred, CAVA did not pay Ms. Samaniego and other aggrieved employees for at least half of their scheduled day’s work or the minimum reporting time pay when they were subject to CAVA’s “on-call” policy and were ultimately not called.

Second, CAVA had a company-wide practice of sending Ms. Samaniego and other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay Ms. Samaniego and other aggrieved employees for half of their scheduled shift. For example, when scheduled to work an eight (8) hour shift, Ms. Samaniego was sent home after two (2) hours because work was slow, but was only paid for the time that she had worked. Although Ms. Samaniego and other aggrieved employees would report to work based on the schedule that CAVA provided to them, CAVA would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, Ms. Samaniego and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

Ms. Samaniego 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 14(B) – 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)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that section 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under section 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under section 14(B) during “lulls in operation.” *Id.*

CAVA’s California restaurant locations are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Ms. Samaniego and other aggrieved employees during lulls in operation. CAVA could provide Ms. Samaniego and other aggrieved employees with a seat or stool in its work areas, but instead denies employees seating and forces Ms. Samaniego and other aggrieved employees to stand throughout the day.

CAVA did not provide Ms. Samaniego and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Ms. Samaniego and other aggrieved employees engaged in duties in which the nature of the work required standing, CAVA denied them the use of seats nearby during lulls in their work duties. Moreover, CAVA did not inform Ms. Samaniego and other aggrieved employees of their rights to a seat or stool under California law.

As a result of CAVA’s company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Ms. Samaniego and other aggrieved employees were forced to stand during shifts and denied seats. CAVA’s failure to provide suitable seating to Ms. Samaniego and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order 5-2001, Section 14(B).

Ms. Samaniego and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, and seek injunctive relief to bring CAVA 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 § 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, CAVA had a company-wide policy of requiring Ms. Samaniego and other aggrieved employees to utilize their own personal cellular phones to carry out their job duties, but CAVA failed to reimburse them for the costs of their work-related cellular phone expenses. Ms. Samaniego and other aggrieved employees were required to use their personal cellular phones for work-related tasks, including responding to calls from supervisors and calling in to the restaurant when scheduled for “on-call” shifts. For example, as stated, Ms. Samaniego spent one (1) hour each week off-the-clock to discuss with her supervisors the tasks she had completed during previous shifts. Although CAVA required Ms. Samaniego and other aggrieved employees to utilize their personal cellular phones to carry out their work-related duties, CAVA failed to reimburse them for this cost.

Second, CAVA had a company-wide policy of requiring Ms. Samaniego and other aggrieved employees to utilize their own personal vehicles or obtain alternate transportation to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, CAVA required Ms. Samaniego to drive to grocery stores in the surrounding area once per month to obtain restaurant ingredients, such as oil and pepper. As a further example, Ms. Samaniego was twice required to travel 10 miles roundtrip to and from CAVA’s restaurant in Encinitas, California, during her shifts, to help staff this location. Although CAVA required Ms. Samaniego and other aggrieved employees to use their own personal vehicles or obtain alternate transportation to complete their work-related duties, CAVA never reimbursed them for their travel expenses.

Third, during the relevant time period, CAVA, on a company-wide basis, forced other aggrieved employees to purchase their own tools and supplies in order to complete their work-related duties. For example, other aggrieved employees were required to purchase and use their own tools in order to perform their job duties, such as cooking and making store repairs. Although CAVA required other aggrieved employees to purchase and use their own tools and supplies in the performance of their duties, it did not reimburse them for these expenses.

Fourth, CAVA, on a company-wide basis, expected Ms. Samaniego and other aggrieved employees to report to work wearing clean uniforms, including a uniform shirt and hat embroidered with CAVA’s logo, while simultaneously failing to provide employees with an adequate number of those uniforms. This forced Ms. Samaniego and other aggrieved employees to clean their uniforms frequently and incur expenses for doing so. For example, Ms. Samaniego was only provided three (3) uniform shirts and one (1) uniform hat, despite being scheduled to work five (5) or more days each week. In addition, due to the nature of their work, Ms. Samaniego’s and other aggrieved employees’ uniforms would become stained and/or acquire an unpleasant odor, and Ms. Samaniego and other aggrieved employees would be required to wash and clean their uniforms more frequently than they would otherwise, further increasing their overall laundry costs.

CAVA could have provided Ms. Samaniego and other aggrieved employees with the actual tools for use on the job, such as company phones, company vehicles, restaurant tools and supplies, to be used for fulfilling work-related tasks, and an adequate number of uniforms and/or access to laundering services. Or, CAVA could have reimbursed employees for the costs of their cellular phone, mileage, travel, restaurant tools and supplies, and laundering expenses. Instead, CAVA passed these operating

costs off onto Ms. Samaniego and other aggrieved employees. At all relevant times, Ms. Samaniego did not earn at least two (2) times the minimum wage.

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

At all relevant times, on information and belief, CAVA failed, on a company-wide basis, to provide written notice to Ms. Samaniego and other aggrieved employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). CAVA's failure to provide Ms. Samaniego and other aggrieved employees with written notice of basic information regarding their employment with CAVA is in violation of Labor Code section 2810.5.

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

Accordingly, Ms. Samaniego seeks the remedies set forth in Labor Code section 558 for herself, the

State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Samaniego, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against CAVA for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226(b), 226.7, 246, 432, 510, 512(f), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2802, and 2810.5.

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

Pre-Litigation Demand

This notice shall further serve as Ms. Samaniego's reasonable attempt to settle her dispute with CAVA prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform CAVA of Ms. Samaniego's aforementioned grievances and the proposed remedies as detailed below, while affording CAVA a reasonable opportunity to satisfy Ms. Samaniego's demands.

Demand is hereby made that CAVA shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. CAVA shall pay Ms. Samaniego and all other aggrieved employees employed by CAVA at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. CAVA shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid reporting time pay.
3. CAVA shall conduct a survey or interview all current and former aggrieved employees in California who worked for CAVA in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for cellular phone expenses, mileage, travel expenses, tool/supply expenses, uniform maintenance, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. CAVA shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512, 516, and 1198. CAVA also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. CAVA shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for CAVA's benefit, including, but not limited to, costs of cellular phone

expenses, mileage, travel expenses, tool/supply expenses, and uniform maintenance or laundering costs, as required by Labor Code section 2802.

6. CAVA shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. CAVA shall provide Ms. Samaniego and all aggrieved employees employed by CAVA at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. CAVA shall timely provide those aggrieved employees who request to inspect or copy records pertaining to their employment, with a copy of their personnel record, signed instruments, and documents and records related to their employment, as required by Labor Code sections 226(b), 432, and 1198.5.
9. CAVA shall provide Ms. Samaniego and all aggrieved employees with paid sick leave benefits, as set forth in Labor Code section 246(i).
10. CAVA shall provide all aggrieved employees who worked over thirty (30) hours per week and over six (6) hours per day in a workweek with one day's rest in seven, as required by Labor Code sections 551 and 552.
11. CAVA shall implement and provide suitable seating to all aggrieved employees.
12. CAVA shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
13. CAVA shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
14. CAVA shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 5-2001, section 20.

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

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

Best Regards,

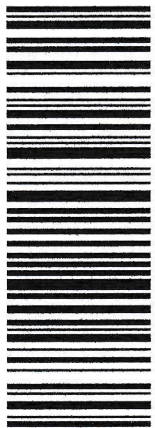
A handwritten signature in black ink, appearing to read 'Julian Quattlebaum', with a stylized flourish at the end.

Julian Quattlebaum

Copy: CAVA MEZZE GRILL, LLC (via U.S. Certified Mail); CAVA FOODS, LLC (via U.S. Certified Mail); CAVA GROUP, INC. (via U.S. Certified Mail); CAVA HOLDING COMPANY (via U.S. Certified Mail)

tone
LAW APC

ury Park East, Ste 1000
s, CA 90067



7020 1290 0001 8879 1463

CAVA MEZZE GRILL, LLC
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



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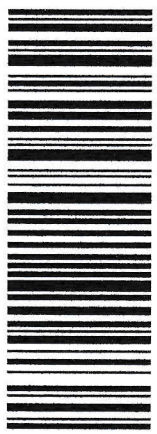
Samaniego v. Cava
Mezze Grill, LLC

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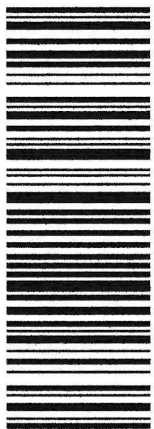
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Samaniego V. Cava
Foods, LLC

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

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CA 90067



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CAVA GROUP, INC.
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



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CAVA GROUP, INC.
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



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☐ 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

CAVA GROUP, INC.

Street and Apt. No., or PO Box No.

702 H STREET NW, SECOND FLOOR

City, State, ZIP+4®

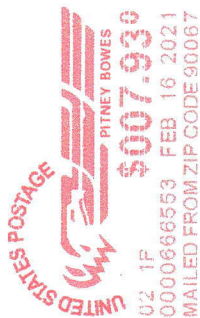
WASHINGTON DC, 20001

Postmark
Here

Sumanipal V. Cava
Group, Inc.

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

See Reverse for Instructions



SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

CAVA HOLDING COMPANY
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



9590 9402 1512 5362 2719 88

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1487

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 | ☐ 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 (over \$500) | |

Domestic Return Receipt

CERTIFIED MAIL®



7020 1290 0001 8879 1487

CAVA HOLDING COMPANY
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001

one
_AW APC
y Park East, Ste 1000
CA 90067

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

CAVA HOLDING COMPANY
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001

Postmark
Here

Samaniego V. Cava
Holding Company

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

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
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1. Article Addressed to:

CAVA MEZZE GRILL, LLC
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



9590 9402 1512 5362 2719 33

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1463

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

CAVA CAVA

☐ Agent☐ Addressee

B. Received by (Printed Name)

C19-141

C. Date of Delivery

2/26/21

- 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
☐ 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

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
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1. Article Addressed to:

CAVA FOODS, LLC
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



9590 9402 1512 5362 2719 26

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1456

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

CAVA

☐ Agent☐ Addressee

B. Received by (Printed Name)

C19-141

C. Date of Delivery

2/26/21

- 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
☐ 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

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:

CAVA GROUP, INC.
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



9590 9402 1512 5362 2719 19

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1470

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

CAVA

☐ Agent☐ Addressee

B. Received by (Printed Name)

C19-141

C. Date of Delivery

2/26/21

- 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
☐ 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

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1. Article Addressed to:

CAVA HOLDING COMPANY
702 H STREET NW, SECOND FLOOR
WASHINGTON DC, 20001



9590 9402 1512 5362 2719 88

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1487

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X CAVA

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C/9 2/4/

C. Date of Delivery

2/27/21

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 (over \$500)
- ☐ 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

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

Domestic Return Receipt