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

15 RICKEY MENDOZA, as an aggrieved
16 employee pursuant to the Private Attorneys
17 General Act ("PAGA"), on behalf of the
18 State of California and other aggrieved
19 employees,

20 Plaintiff,

21 vs.

22 THE BICYCLE CASINO, L.P., a
23 California limited partnership; and DOES 1
24 through 10, inclusive,

25 Defendants.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

APR 26 2021

Sherri R. Carter, Executive Officer/Clerk of Court
By: Tanya Herrera, Deputy

BY FAX

Case No.: 21STCV15821

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 Rickey Mendoza, as an aggrieved employee and on behalf of the State of
2 California and all other 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 sections 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 a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations of
9 any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order
11 were committed, as set forth in this complaint, at any time between one year prior to the filing
12 of the pre-filing written notice to the Labor and Workforce Development Agency (“LWDA”) in
13 this case on September 25, 2020, until judgment (“non-party Aggrieved Employees”).
14 Plaintiff’s share of civil 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 notions
22 of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this
23 action given that the State of California, as the real party in interest in this action, is not a
24 “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726
25 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated
26 to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action,
27 and that diversity jurisdiction cannot be established when Plaintiff’s share of the civil penalties
28 attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

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

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 Rickey Mendoza is a resident of Bell Gardens, in Los Angeles County, California. Defendants employed Plaintiff as an hourly paid, non-exempt Cook from approximately October 2018 to March 2020. Plaintiff worked for Defendants at their Bell Gardens, California hotel location. During his employment, Plaintiff typically worked eight (8) to fourteen (14) hours or more per day, five (5) to six (6) days per week. At the time his employment ended, Plaintiff earned approximately \$16.75 per hour. His job duties included, without limitation, preparing ingredients, making sauces, stocking and cleaning his workstation, and preparing food.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute a dispute resolution policy and/or arbitration agreement at the time of their hire or during their employment. On further information and belief, Defendants' dispute resolution policy and/or arbitration agreement was and is both procedurally and substantively unconscionable. Specifically, Defendants presented new hires with an Acknowledgement of Arbitration ("Arbitration Agreement") during the onboarding process, which had to be reviewed and signed immediately. In fact, upon information and belief, the Arbitration Agreement was one of several documents presented to new employees for signature during the orientation process, including a Team Member Handbook; Fingerprint Wage Deduction Authorization,

1 Parking Agreement; Discrimination, Harassment, and Retaliation Prevention Policy; and City
2 of Bell Gardens Ordinance on Rules & Regulations Governing Card Rooms, among other
3 documents. Also, employees did not have a meaningful opportunity to negotiate the terms of
4 the Arbitration Agreement. Rather, it was provided to Defendants' employees for them to sign
5 on a take-it or leave-it basis at the time they were hired, along with other on-boarding
6 documents. Further, Defendants did not set forth in the agreement or otherwise provide
7 employees with the rules which will govern the arbitration, instead forcing employees to seek
8 this information out on their own.

9 8. THE BICYCLE CASINO, L.P., was and is, upon information and belief, a
10 California limited partnership, and at all times hereinafter mentioned, an employer whose
11 employees are engaged throughout this county and the State of California.

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

16 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
17 were the partners, agents, owners, or managers of THE BICYCLE CASINO, L.P. at all relevant
18 times.

19 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
20 acts and omissions alleged herein was performed by, or is attributable to, THE BICYCLE
21 CASINO, L.P.; and/or DOES 1 through 10 (collectively, "Defendants" or "BICYCLE
22 CASINO"), each acting as the agent, employee, alter ego, and/or joint venturer of, or working
23 in concert with, each of the other co-Defendants and was acting within the course and scope of
24 such agency, employment, joint venture, or concerted activity with legal authority to act on the
25 others' behalf. The acts of any and all Defendants were in accordance with, and represent, the
26 official policy of Defendants.

27 12. At all relevant times, Defendants, and each of them, ratified each and every act
28 or omission complained of herein. At all relevant times, Defendants, and each of them, aided

1 and abetted the acts and omissions of each and all the other Defendants in proximately causing
2 the damages herein alleged.

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

6 **PAGA REPRESENTATIVE ALLEGATIONS**

7 14. Defendants own and operate one of the largest hotel casinos in Los Angeles.
8 Upon information and belief, Defendants maintain a single, centralized Human Resources
9 (“HR”) department at their company headquarters in Bell Gardens, California, which is
10 responsible for the recruiting and hiring of new employees, and communicating and
11 implementing Defendants’ company-wide policies, including timekeeping policies and meal
12 and rest period policies, to employees throughout California.

13 15. In particular, Plaintiff and other non-party Aggrieved Employees, on information
14 and belief, received the same standardized documents and/or written policies. Upon
15 information and belief, the usage of standardized documents and/or written policies, including
16 new-hire documents, indicate that Defendants dictated policies at the corporate level and
17 implemented them company-wide, regardless of their employees’ assigned locations or
18 positions. Upon information and belief, Defendants set forth uniform policies and procedures
19 in several documents provided at an employee’s time of hire.

20 16. Upon information and belief, Defendants maintain a centralized Payroll
21 department at their company headquarters in Bell Gardens, California, which processes payroll
22 for all non-exempt, hourly paid employees working for Defendants at their various locations
23 and jobsites in California, including Plaintiff and other non-party Aggrieved Employees. Based
24 upon information and belief, Defendants issue the same formatted wage statements to all non-
25 exempt, hourly paid employees in California, irrespective of their work locations. Upon
26 information and belief, Defendants process payroll for departing employees in the same manner
27 throughout the State of California, regardless of the manner in which each employee’s
28 employment ends.

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

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

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

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

14 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that other non-party Aggrieved Employees were entitled to be paid at a
16 regular rate of pay, and corresponding overtime rates of pay, that included as eligible income
17 all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of
18 compensation.

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

25 23. 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 meal periods in accordance with the California Labor Code and applicable IWC Wage Order or
28 payment of one (1) additional hour of pay at their regular rates of pay when they were not

1 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other
2 non-party Aggrieved Employees were not provided with all meal periods or payment of one (1)
3 additional hour of pay at their regular rates of pay when they did not receive a timely,
4 uninterrupted, thirty (30) minute meal period.

5 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to rest
7 periods in accordance with the California Labor Code and applicable IWC Wage Order or
8 payment of one (1) additional hour of pay at their regular rates of pay when they were not
9 authorized and permitted to take a compliant rest period. In violation of the California Labor
10 Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to
11 take compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved
12 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
13 they were not authorized and permitted to take a compliant rest period.

14 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 receive complete and accurate wage statements in accordance with California law. In violation
17 of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not
18 provided complete and accurate wage statements.

19 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that they had a duty to maintain accurate and complete payroll records in
21 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
22 knowingly, and intentionally failed to do so.

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

1 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
3 timely payment of all wages earned upon termination of employment. In violation of the
4 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
5 payment of all wages due, including, but not limited to, overtime wages, minimum wages, meal
6 and rest premiums, and/or reporting time pay, within permissible time periods.

7 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that they had a duty to cover the costs and expenses other non-party
9 Aggrieved Employees incurred obtaining mandatory examinations and/or drug tests, but
10 willfully, knowingly, and intentionally failed to do so.

11 30. 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 be paid reporting
13 time pay when they reported to work for their scheduled shift but were put to work for less than
14 half of the regular schedule. In violation of the California Labor Code, Defendants did not pay
15 other non-party Aggrieved Employees all reporting time pay due.

16 31. 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 receive reimbursement for all business-related expenses and costs they incurred during the
19 course and scope of their employment and that they did not receive reimbursement of applicable
20 business-related expenses and costs incurred.

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

27 33. At all times herein set forth, PAGA provides that any provision of law under the
28 California Labor Code and applicable IWC Wage Order that provides for a civil penalty to be

1 assessed and collected by the LWDA for violations of the California Labor Code and applicable
2 IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action
3 brought on behalf of themselves and other current or former employees pursuant to procedures
4 outlined in California Labor Code section 2699.3.

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

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

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

14 (a) The aggrieved employee shall give written notice by online filing
15 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail to
16 the employer of the specific provisions of the California Labor Code
17 alleged to have been violated, including the facts and theories to support
18 the alleged violations.

19 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
20 2699.3(a) and any employer response to that notice shall be accompanied
21 by a filing fee of seventy-five dollars (\$75).

22 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
23 employer and the aggrieved employee by certified mail that it does not
24 intend to investigate the alleged violation within sixty (60) calendar days
25 of the postmark date of the Employee’s Notice. Upon receipt of the
26 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
27 (65) calendar days of the postmark date of the Employee’s Notice, the
28 aggrieved employee may commence a civil action pursuant to California

1 Labor Code section 2699 to recover civil penalties in addition to any other
2 penalties to which the employee may be entitled.

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

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

11 (b) An aggrieved employee's notice filed with the LWDA pursuant to
12 2699.3(c) and any employer response to that notice shall be accompanied
13 by a filing fee of seventy-five dollars (\$75).

14 (c) The employer may cure the alleged violation within thirty-three (33)
15 calendar days of the postmark date of the notice. The employer shall give
16 written notice by certified mail within that period of time to the aggrieved
17 employee or representative and the agency if the alleged violation is
18 cured, including a description of actions taken, and no civil action
19 pursuant to Section 2699 may commence. If the alleged violation is not
20 cured within the 33-day period, the employee may commence a civil
21 action pursuant to Section 2699.

22 38. On February 16, 2021, Plaintiff provided written notice by online filing to the
23 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
24 Code alleged to have been violated, including facts and theories to support the alleged
25 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice
26 was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA
27 PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff
28 PAGA Case Number LWDA-CM-821835-21. A true and correct copy of Plaintiff's written

1 notice to the LWDA and Defendants dated February 16, 2021, is attached hereto as “Exhibit 1.”

2 39. As of the filing date of this complaint, over 65 days have passed since Plaintiff
3 sent the initial LWDA Notice described above, and the LWDA has not responded that it intends
4 to investigate Plaintiff’s claims, and Defendants have not cured the violations.

5 40. Thus, Plaintiff has satisfied the administrative prerequisites under California
6 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
7 violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510,
8 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

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

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

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

1 Order.

2 44. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
3 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private
4 attorney general, seeks assessment and collection of civil penalties for himself, all other non-
5 party Aggrieved Employees, and the State of California against Defendants for violations of
6 California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516,
7 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

8 **FIRST CAUSE OF ACTION**

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

10 **(Against all Defendants)**

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

13 46. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
14 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
15 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5, 226(a),
16 226.7, 510, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section 2699.3(c) permits
17 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor
18 Code sections not found in section 2699.5, including sections 516 and 1182.12.

19 47. Defendants’ conduct, as alleged herein, violates numerous sections of the
20 California Labor Code, including, but not limited to, the following:

- 21 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
22 Wage Order for Defendants’ failure to compensate Plaintiff and other
23 non-party Aggrieved Employees with all required overtime pay and
24 failure to properly calculate the overtime rates paid to other non-party
25 Aggrieved Employees, as set forth below;
- 26 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the
27 applicable IWC Wage Order for Defendants’ failure to compensate
28 Plaintiff and other non-party Aggrieved Employees with at least

1 minimum wages for all hours worked as set forth below;

2 (c) Violation of Labor Code sections 226.7, 512(a), 516, 1198, and the
3 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
4 and other non-party Aggrieved Employees with meal periods, as set forth
5 below;

6 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
7 IWC Wage Order for Defendants' failure to authorize and permit Plaintiff
8 and other non-party Aggrieved Employees to take rest periods, as set forth
9 below;

10 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
11 Wage Order for failure to provide accurate and complete wage statements
12 to Plaintiff and other non-party Aggrieved Employees, as set forth below;

13 (f) Violation of Labor Code sections 1174(d), 1198, and the applicable IWC
14 Wage Order for failure to maintain payroll records as set forth below;

15 (g) Violation of Labor Code section 204 for failure to pay all earned wages
16 during employment, as set forth below;

17 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
18 earned wages upon termination, as set forth below;

19 (i) Violation of Labor Code section 222.5 for failing to compensate other
20 non-party Aggrieved Employees for mandatory physical examinations
21 and/or drug testing, as set forth below;

22 (j) Violation of California Labor Code section 1198 and the applicable IWC
23 Wage Order for failure to pay reporting time pay when other non-party
24 Aggrieved Employees were put to work for less than half of their regular
25 scheduled shifts, as set forth below; and

26 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
27 and other non-party Aggrieved Employees for all business expenses
28 necessarily incurred, as set forth below.

1 **FAILURE TO PAY OVERTIME**

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

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

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

12 50. Specifically, the applicable IWC Wage Order provides that Defendants are and
13 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
14 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
15 one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in
16 a day or more than forty (40) hours in a workweek.

17 51. The applicable IWC Wage Order further provides that Defendants are and were
18 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
19 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
20 An employee’s regular rate of pay includes all remuneration for employment paid to, or on
21 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

22 52. California Labor Code section 510 codifies the right to overtime compensation
23 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
24 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
25 (7th) day of work, and to overtime compensation at twice the employee’s regular rate of pay for
26 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
27 the seventh (7th) day of work.

28 ///

1 53. During the relevant time period, Defendants willfully failed to pay all overtime
2 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
3 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
4 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
5 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
6 not recorded.

7 54. First, Defendants had, and continue to have, a company-wide policy staffing their
8 operations strictly based on the labor hours or labor budget set by the corporate office.
9 Defendants' use of a labor budget resulted in chronic understaffing, such that there were too
10 few employees on duty to handle the heavy workload and provide meal period coverage. As a
11 result of this lack of meal period coverage, Plaintiff and other non-party Aggrieved Employees
12 were not always afforded uninterrupted 30-minute meal periods to which they were entitled.
13 For example, Plaintiff and other non-party Aggrieved Employees were typically required to
14 work through their meal periods in order to complete their assigned tasks, such as preparing
15 food and fulfilling meal orders. Accordingly, Plaintiff and other non-party Aggrieved
16 Employees missed meal periods and/or had meal periods cut short or interrupted in order to
17 handle their workloads.

18 55. Furthermore, Defendants have, on a company-wide basis, failed to adhere to a
19 schedule of meal periods. This company-wide practice, coupled with the heavy workload and
20 pressure from Defendants to complete assigned tasks, impeded Plaintiff and other non-party
21 Aggrieved Employees from taking timely, compliant meal periods. For example, Plaintiff
22 missed meal periods approximately three (3) times per week because he was busy preparing
23 food and fulfilling meal orders. Plaintiff's unpaid meal periods were also interrupted or cut
24 short twice per month, for about 15 minutes per instance, due to Defendants' management
25 asking Plaintiff to return to work because the kitchen was falling behind on meal orders.
26 Moreover, because Defendants frowned upon employees accruing meal period penalties,
27 Defendants required Plaintiff and other non-party Aggrieved Employees to clock out for meal
28 periods and/or adjusted employee time records to reflect compliant meal periods, regardless of

1 whether they had received a compliant meal period or not, in order to strictly limit meal penalties
2 that Defendants would otherwise owe. Thus, Plaintiff and other non-party Aggrieved
3 Employees performed work during meal periods for which they were not paid.

4 56. Second, Defendants had a company-wide loss-prevention policy requiring
5 employees to undergo mandatory security checks once per week by a security guard when
6 entering or leaving the premises. As a result of Defendants' policy, Plaintiff and other non-
7 party Aggrieved Employees were required to undergo security screenings before clocking in or
8 after clocking out at the end of a shift prior to entering or exiting the premises. For example,
9 Plaintiff and other non-party Aggrieved Employees were required to wait 1-2 minutes per
10 instance for the security guard to check their bags before clocking in at the beginning of their
11 shifts or after clocking out at the end of their shifts. Although Defendants' requirement that
12 Plaintiff and other non-party Aggrieved Employees undergo security checks was mandatory,
13 Defendants did not compensate them for the time it took them to wait in line and undergo these
14 checks.

15 57. Third, Defendants required employees with food handling duties to obtain
16 California Food Handler Cards, which led to employees completing online food safety training
17 and testing from home, on their off-days, or during their unpaid meal periods, but did not
18 compensate them for this time. For example, other non-party Aggrieved Employees could
19 spend up to four (4) hours completing mandatory food safety training, but were not paid by
20 Defendants for this time.

21 58. 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 their assigned duties during meal periods and/or while off-the-clock, and were suffered or
24 permitted to perform work for which they were not paid. Because Plaintiff and other non-party
25 Aggrieved Employees worked shifts of eight (8) hours a day or more or forty (40) hours a week
26 or more, some of this off-the-clock work qualified for overtime premium pay. Therefore,
27 Plaintiff and other non-party Aggrieved Employees were not paid overtime wages for all of the
28 overtime hours they actually worked.

1 59. 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, but not
6 limited to, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into
7 the calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
8 Therefore, during times when other non-party Aggrieved Employees worked overtime and
9 received these other forms of pay, Defendants failed to pay all overtime wages by paying a
10 lower overtime rate than required.

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

16 **FAILURE TO PAY MINIMUM WAGES**

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

18 61. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
19 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to
20 be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
21 Compensable work time is defined by the applicable IWC Wage Order as "the time during
22 which an employee is subject to the control of an employer, and includes all the time the
23 employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs.
24 tit. 8, § 11050(2)(K) (defining "Hours Worked").

25 62. As set forth above, due to Defendants' uniform practice of utilizing labor
26 budgets, resultant understaffing, assignment of heavy workloads, failure to adhere to a schedule
27 of meal periods, and subsequent lack of meal period coverage, Plaintiff and other non-party
28 Aggrieved Employees were forced to forego meal periods and/or had their meal periods

1 interrupted by work. Moreover, as set forth above, in order to prevent employees from accruing
2 meal period penalties, Defendants' management required Plaintiff and other non-party
3 Aggrieved Employees to clock out for meal periods and/or adjusted their time records to reflect
4 compliant meal periods, but required them to continue working, time for which they were not
5 paid. In addition, Defendants required that Plaintiff and other non-party Aggrieved Employees
6 perform work off-the-clock after their scheduled shifts, including submitting to off-the-clock
7 security checks and/or completing online trainings.

8 63. Furthermore, Defendants maintained and implemented a company-wide policy
9 of requiring that other non-party Aggrieved Employees undergo a mandatory drug testing,
10 physical examinations, and/or fingerprint-based background checks. At all times, Defendants
11 were in control of scheduling the date and time for the testing and/or examinations, selecting
12 the provider/facility where the testing and/or examinations were to take place, and determining
13 the scope of the testing and/or examinations. Defendants gave other non-party Aggrieved
14 Employees strict instructions to obtain drug testing, physical examinations, and/or fingerprint-
15 based background checks, and other non-party Aggrieved Employees underwent the testing,
16 examinations, and/or background checks for the sole benefit of Defendants. For example, other
17 non-party Aggrieved Employees followed Defendants' instructions, traveled in their personal
18 vehicles to and from a designated medical facility in Bell Gardens, California, and spent time
19 waiting for and undergoing the requisite drug testing and physical examinations. As a further
20 example, other non-party Aggrieved Employees followed Defendants' instructions to obtain the
21 requisite fingerprint-based background checks, and traveled in their personal vehicles to and
22 from the police station in Bell Gardens, California, and underwent the requisite fingerprinting.
23 However, Defendants did not compensate other non-party Aggrieved Employees for the time
24 they spent traveling to and from the medical facility and/or police station and for the time they
25 spent undergoing the drug testing, physical examinations, and/or fingerprint-based background
26 checks.

27 64. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
28 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did not

1 qualify for overtime premium payment, Defendants did not pay at least minimum wages for
2 those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194,
3 1197, and 1198.

4 65. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
5 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
6 Plaintiff and other non-party Aggrieved Employees are therefore therefore entitled to recover
7 civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

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

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

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

20 68. At all relevant times herein set forth, California Labor Code sections 226.7,
21 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
22 meal period mandated by an applicable order of the IWC.

23 69. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
24 and the applicable IWC Wage Order also require employers to provide a second meal period of
25 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
26 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
27 hours worked is no more than twelve (12) hours, the second meal period may be waived by
28 mutual consent of the employer and the employee only if the first meal period was not waived.

1 70. As stated, Defendants had, and continue to have, a company-wide policy and/or
2 practice of understaffing pursuant to their labor budget practices, while simultaneously
3 assigning heavy workloads, which resulted in a lack of meal period coverage and prevented
4 Plaintiff and other non-party Aggrieved Employees from taking all timely, uninterrupted meal
5 periods to which they were entitled. Additionally, Defendants failed to adhere to a schedule of
6 meal periods, resulting in Plaintiff and other non-party Aggrieved Employees having their meal
7 periods interrupted to return to work or waiting extended periods of time before taking meal
8 periods, due to the workload and pressure to complete assigned tasks. For example, Plaintiff
9 missed meal periods approximately three (3) times per week because he was busy preparing
10 food and fulfilling meal orders. Plaintiff's unpaid meal periods were also interrupted or cut
11 short twice per month, for about 15 minutes per instance, due to Defendants' management
12 asking him to return to work because the kitchen was falling behind on meal orders. Further,
13 because Defendants frowned upon employees accruing meal period penalties, Defendants
14 required Plaintiff and other non-party Aggrieved Employees to clock out for meal periods and/or
15 adjusted employee time records to reflect compliant meal periods, regardless of whether they
16 had received a compliant meal period or not, in order to strictly limit meal penalties that
17 Defendants would otherwise owe.

18 71. In addition, Defendants did not provide other non-party Aggrieved Employees
19 with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one
20 day. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period waivers
21 on days that they were entitled to meal periods and were not relieved of all duties.

22 72. Defendants knew or should have known that as a result of their policies, Plaintiff
23 and other non-party Aggrieved Employees were not actually relieved of all duties to take timely,
24 uninterrupted meal periods. Defendants further knew or should have known that they did not
25 pay Plaintiff and other non-party Aggrieved Employees meal period premiums when meal
26 periods were missed, late, short, and/or interrupted.

27 73. Furthermore, Defendants engaged in a company-wide practice and/or policy of
28 not paying all meal period premiums owed when compliant meal periods are not provided.

1 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have
2 not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the
3 extent that Defendants did pay other non-party Aggrieved Employees premium pay for missed,
4 late, and interrupted meal periods, Defendants did not pay non-party Aggrieved Employees the
5 correct rate for premiums because Defendants systematically failed to include all forms of
6 compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of
7 remuneration in the regular rate of pay.

8 74. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
9 Employees compliant meal periods and failed to pay the full meal period premiums due.
10 Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code
11 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are
12 therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a),
13 (f), and (g).

14 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

15 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

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

19 76. At all relevant times, the applicable IWC Wage Order provides that "[e]very
20 employer shall authorize and permit all employees to take rest periods, which insofar as
21 practicable shall be in the middle of each work period" and that the "rest period time shall be
22 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
23 hours or major fraction thereof" unless the total daily work time is less than three and one-half
24 (3 ½) hours.

25 77. At all relevant times, California Labor Code section 226.7 provides that no
26 employer shall require an employee to work during any rest period mandated by an applicable
27 order of the California IWC. To comply with its obligation to authorize and permit rest periods
28 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer

1 must “relinquish any control over how employees spend their break time, and relieve their
2 employees of all duties—including the obligation that an employee remain on call. A rest
3 period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th
4 257, 269-270 (2016).

5 78. Pursuant to the applicable IWC Wage Order and California Labor Code section
6 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
7 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
8 required rest period was not authorized and permitted.

9 79. During the relevant time period, Defendants regularly failed to authorize and
10 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest period
11 per each four (4) hour period worked or major fraction thereof. As with meal periods,
12 Defendants’ policies and/or practices of utilizing labor budgets, resultant understaffing, and
13 assigning of heavy workloads, prevented Plaintiff and other non-party Aggrieved Employees
14 from being relieved of all duty in order to take compliant rest periods. Defendants also failed
15 to adhere to a schedule of rest periods, which, coupled with Defendants’ failure to provide
16 adequate rest period coverage, further led to Plaintiff and other non-party Aggrieved Employees
17 not being authorized and permitted to take rest periods.

18 80. Furthermore, on information and belief, during the relevant time period,
19 Defendants maintained and implemented a company-wide on-premises rest period policy,
20 which mandated that Plaintiff and/or non-party Aggrieved Employees remain on the work
21 premises during their rest periods. Because Plaintiff and/or other non-party Aggrieved
22 Employees were restricted from leaving the premises during rest periods, they were denied the
23 ability to use rest periods freely for their own purposes, such as running personal errands. Thus,
24 Defendants effectively maintained control over Plaintiff and/or non-party Aggrieved
25 Employees during rest periods, and, as a result of this rest period policy, Defendants did not
26 relinquish control over Plaintiff and/or other non-party Aggrieved Employees during rest
27 periods.

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1 81. As a result of Defendants' practices and policies, Plaintiff and other non-party
2 Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
3 excess of 10 hours without being permitted and authorized to take all ten (10) minute rest
4 periods to which they were entitled. For example, during his employment, Plaintiff missed his
5 rest periods 3 days per week due to the heavy workload and the lack of coverage for rest periods.
6 When he was able to take his rest periods, they were cut short 1-2 times per week when
7 supervisors asked him to return early to assist with the busy workload.

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

15 83. Defendants' conduct violates the applicable IWC Wage Order and California
16 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved Employees
17 are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
18 2699(a), (f), and (g).

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

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

26 85. During the relevant time period, Defendants have knowingly and intentionally
27 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
28 inaccurate wage statements. For example, Defendants issued uniform wage statements to

1 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
2 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
3 the pay period, including overtime rates of pay, and the corresponding number of hours worked
4 at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5),
5 and 226(a)(9).

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

16 87. Also, because Defendants did not calculate other non-party Aggrieved
17 Employees' regular rate of pay correctly for purposes of paying overtime, Defendants did not
18 list the correct amount of gross wages in compliance with section 226(a)(1). For the same
19 reason, Defendants also failed to list the correct amount of net wages in violation of section
20 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during the
21 pay period, namely, correct overtime rates of pay and correct rates of pay for meal and rest
22 premium wages, in violation of section 226(a)(9).

23 88. The wage statement deficiencies also include, without limitation, failing to list
24 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
25 piece-rate basis; failing to list all deductions; failing to list the name of the employee and only
26 the last four digits of his or her social security number or an employee identification number
27 other than a social security number; failing to list the name and address of the legal entity that
28 is the employer; failing to list the inclusive dates of the period for which aggrieved employees

1 were paid; and/or failing to state all hours worked as a result of not recording or stating hours
2 worked off-the-clock.

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

12 90. California Labor Code section 1198 provides that the maximum hours of work
13 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
14 forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment
15 of any employees for longer hours than those fixed by the order or under conditions of labor
16 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
17 are required to keep accurate time records showing when the employee begins and ends each
18 work period and meal period. During the relevant time period, Defendants failed, on a
19 company-wide basis, to keep accurate records of work period and meal period start and end
20 times for Plaintiff and other non-party Aggrieved Employees, in violation of section 1198. As
21 stated, Defendants engaged in a company-wide practice and/or policy of falsifying Plaintiff’s
22 and other non-party Aggrieved Employees’ time records by recording that compliant meal
23 periods were taken regardless of if or when meal periods were actually taken, and thereby failed
24 to keep accurate records of meal start and end times for Plaintiff and other non-party Aggrieved
25 Employees. Furthermore, in light of Defendants’ failure to provide other non-party Aggrieved
26 Employees with second 30-minute meal periods to which they were entitled, Defendants kept
27 no records of meal start and end times for second meal periods.

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1 91. Defendants' conduct violates California Labor Code sections 226(a), 1174(d),
2 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
3 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

4 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

5 **VIOLATION OF LABOR CODE SECTION 204**

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

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

20 94. During the relevant time period, Defendants willfully failed to pay Plaintiff and
21 other non-party Aggrieved Employees all wages due to them within any time period specified
22 by 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, within any time period
24 specified by California Labor Code section 204.

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

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1 **FAILURE TO PAY WAGES UPON TERMINATION**

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

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

10 97. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
11 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
12 above, including but not limited to, overtime wages, minimum wages, meal and rest period
13 premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72)
14 hours of their leaving Defendants' employ.

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

21 **FAILURE TO PAY COSTS OF MEDICAL OR PHYSICAL EXAMINATION**

22 **VIOLATION OF LABOR CODE SECTION 222.5**

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

26 100. During the relevant time period, Defendants implemented, on a company-wide
27 basis, an employer-imposed requirement that other non-party Aggrieved Employees undergo
28 mandatory drug tests and/or physical examinations, but required them to do so at their own

1 expense. As stated, Defendants had a company-wide policy requiring that other non-party
2 Aggrieved Employees travel to a specified medical facility on their own time and use their own
3 means of transportation to undergo drug testing and/or physical examinations. At all times,
4 Defendants were in control of scheduling the date and time for the drug testing and/or physical
5 examinations, selecting the provider/facility where the drug testing and/or physical
6 examinations were to take place, and determining the scope of the drug test and/or physical
7 examinations.

8 101. For example, other non-party Aggrieved Employees were instructed by
9 Defendants to travel to a designated medical facility in Bell Gardens, California, and obtain a
10 drug test. Other non-party Aggrieved Employees followed Defendants' instructions, traveled
11 to the medical facility Defendants selected, and underwent the testing. However, Defendants
12 did not compensate other non-party Aggrieved Employees for the time they spent traveling to
13 and from their drug tests and/or physical examinations, or for the time they spent undergoing
14 the testing and/or examinations, or reimburse them for the travel expenses they incurred getting
15 to and from the medical facility. Defendants' policy and/or practice of not paying for all costs
16 other non-party Aggrieved Employees incurred obtaining mandatory drug tests and/or physical
17 examinations is in violation of California Labor Code section 222.5.

18 102. Other non-party Aggrieved Employees are therefore entitled to recover civil
19 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

20 **FAILURE TO PAY REPORTING TIME PAY**

21 **VIOLATION OF LABOR CODE SECTION 1198**

22 103. California Labor Code section 1198 makes it illegal to employ an employee
23 under conditions of labor that are prohibited by the applicable wage order. California Labor
24 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
25 shall be the . . . standard conditions of labor for employees. The employment of any employee
26 . . . under conditions of labor prohibited by the order is unlawful.”

27 104. California Code of Regulations, Title 8, section 11010(5)(A) provides that
28 “[e]ach workday an employee is required to report for work and does report, but is not put to

1 work or is furnished less than half said employee's usual or scheduled day's work, the employee
2 shall be paid for half the usual or scheduled day's work, but in no event for less than two (2)
3 hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be
4 less than the minimum wage." The "primary purpose of the reporting time regulation" is "to
5 guarantee at least partial compensation for employees who report to work expecting to work a
6 specified number of hours, and who are deprived of that amount because of inadequate
7 scheduling or lack of proper notice by the employer." *Aleman v. AirTouch Cellular*, 209 Cal.
8 App. 4th 556 (2012).

9 105. Upon information and belief, Defendants violated California Labor Code section
10 1198 and California Code of Regulations, Title 8, section 11010(5), because Defendants failed
11 to pay other non-party Aggrieved Employees reporting time pay when they reported to work for
12 their scheduled shift but were put to work for less than half of the regular schedule.

13 106. During the relevant period, Defendants had a company-wide practice of sending
14 other non-party Aggrieved Employees home early from their shifts, including before they had
15 worked at least half of their regular shift, but would not pay other non-party Aggrieved
16 Employees for half of their scheduled shift. Although other non-party Aggrieved Employees
17 would report to work based on the schedule that Defendants provided to them, Defendants
18 would send them home before they had worked at least half of their scheduled shifts without
19 giving them reporting time pay. Accordingly, other non-party Aggrieved Employees were not
20 properly compensated with reporting time pay in violation of California Labor Code section
21 1198.

22 107. Other non-party Aggrieved Employees are therefore entitled to recover civil
23 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

24 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

25 **VIOLATION OF LABOR CODE SECTION 2802**

26 108. At all times herein set forth, California Labor Code section 2802 provides that
27 an employer must reimburse employees for all necessary expenditures and losses incurred by
28 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is

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

8 109. First, as stated, Defendants had a company-wide policy of requiring other non-
9 party Aggrieved Employees to travel in their own personal vehicles or obtain alternate
10 transportation to medical facilities to undergo mandatory drug testing, physical examinations,
11 and/or fingerprint-based background checks, but did not reimburse them for their travel
12 expenses, including mileage. At all times, Defendants were in control of scheduling the date
13 and time for the testing and/or physical examinations, selecting the provider or facility where
14 the testing and/or physical examinations were to take place, and determining the scope of the
15 testing and/or physical examinations. Defendants gave other non-party Aggrieved Employees
16 strict instructions to obtain fingerprint-based background checks, drug testing and/or physical
17 examinations, and other non-party Aggrieved Employees underwent the examinations, testing,
18 and/or fingerprint-based background checks for the sole benefit of Defendants. For example,
19 other non-party Aggrieved Employees followed Defendants’ instructions, traveled in their
20 personal vehicles to and from a designated medical facility and police station in Bell Gardens,
21 California to obtain their drug testing, physical examinations, and/or background checks, but
22 were not reimbursed for their mileage to and from these facilities. Although Defendants
23 required other non-party Aggrieved Employees to use their own vehicles or obtain alternate
24 transportation to undergo mandatory drug testing, physical examinations, and/or fingerprint-
25 based background checks, Defendants never reimbursed them for their travel expenses.

26 110. Second, Defendants, on a company-wide basis, required other non-party
27 Aggrieved Employees to pay for fingerprint-based background checks out-of-pocket. For
28 example, Defendants gave other non-party Aggrieved Employees a \$75.00 voucher to obtain

1 fingerprinting and I.D. badges from the Bell Gardens Police Department, but required other
2 non-party Aggrieved Employees to reimburse Defendants through a payroll deduction plan until
3 the voucher was paid back in full.

4 111. Third, Defendants, on a company-wide basis, required other non-party
5 Aggrieved Employees to obtain and pay for certain licenses, such as food handler's permits,
6 that were required for their continued employment, as well as associated costs such as training
7 and examination fees. For example, Defendants required employees with food handling duties
8 to obtain a California Food Handler Card within 30 days from hiring if they wanted to ensure
9 that they would continue to be employed, but did not reimburse them for the costs of obtaining
10 the license. Thus, Defendants failed to reimburse other non-party Aggrieved Employees for all
11 of the costs of obtaining these licenses, including training and examination fees.

12 112. Defendants could have provided Plaintiff and other non-party Aggrieved
13 Employees with the actual tools for use on the job, such as company vehicles, to be used for
14 fulfilling work-related tasks, or could have reimbursed employees for the costs of their travel;
15 mileage; fingerprint-based background checks; and license, training, and examination fees.
16 Instead, Defendants passed these operating costs off onto other non-party Aggrieved
17 Employees.

18 113. Defendants' company-wide policy and/or practice of passing on their operating
19 costs to other non-party Aggrieved Employees violates California Labor Code section 2802.
20 Defendants have intentionally and willfully failed to reimburse other non-party Aggrieved
21 Employees for necessary business-related expenses and costs. Other non-party Aggrieved
22 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
23 2699(a), (f), and (g).

24 **REQUEST FOR JURY TRIAL**

25 Plaintiff requests a trial by jury.

26 **PRAYER FOR RELIEF**

27 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
28 judgment against Defendants, jointly and severally, as follows:

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

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202, and 203 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); 222.5 (by failing to pay the costs of mandatory drug testing and/or physical examinations); 1198 (by failing to provide reporting time pay); and 2802 (by failing to reimburse business expenses).

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

4. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802;

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.

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Dated: April 26, 2021

Respectfully submitted,
Capstone Law APC

By: 
Bevin Allen Pike
Daniel S. Jonathan
Trisha K. Monesi

Attorneys for Plaintiff Rickey Mendoza

EXHIBIT “1”



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February 16, 2021

VIA ONLINE SUBMISSION

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

Subject: *Rickey Mendoza v. The Bicycle Casino, L.P.*

Dear PAGA Administrator:

This office represents Rickey Mendoza in connection with his claims under the California Labor Code. Mr. Mendoza was an employee of The Bicycle Casino, L.P. ("BICYCLE CASINO").

The employer may be contacted directly at the address below:

THE BICYCLE CASINO, L.P.
888 BICYCLE CASINO DRIVE
BELL GARDENS, CA 90201

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

BICYCLE CASINO employed Mr. Mendoza as an hourly paid, non-exempt employee from approximately October 2018 to March 2020. Mr. Mendoza worked for BICYCLE CASINO as a Cook at its location in Bell Gardens, California. During his employment, Mr. Mendoza typically worked eight (8) to fourteen (14) hours or more per day, five (5) to six (6) days per week. At the time his employment ended, Mr. Mendoza was compensated approximately \$16.75 per hour. His job duties included, without limitation, preparing ingredients, making sauces, stocking and cleaning his workstation, and preparing food.

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

BICYCLE CASINO’s Company-Wide and Uniform Payroll and HR Practices

THE BICYCLE CASINO, L.P. is a California limited partnership and operates one of the largest hotel casinos in Los Angeles. Upon information and belief, BICYCLE CASINO maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Bell Gardens, California, for all non-exempt, hourly paid employees working for BICYCLE CASINO in California, including Mr. Mendoza and other aggrieved employees. At all relevant times, BICYCLE CASINO issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Mendoza and other aggrieved employees, regardless of its location or position.

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

BICYCLE CASINO willfully failed to pay all overtime wages owed to Mr. Mendoza and other aggrieved employees. During the relevant time period, Mr. Mendoza and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a

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

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, on information and belief, BICYCLE CASINO had, and continues to have, a company-wide policy staffing its locations strictly based on the labor hours or labor budget set by the corporate office. BICYCLE CASINO's use of a labor budget resulted in chronic understaffing, such that there were too few employees on duty to handle the heavy workload and provide meal period coverage. As a result of this lack of meal period coverage, Mr. Mendoza and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods to which they were entitled. For example, Mr. Mendoza and other aggrieved employees were typically required to work through their meal periods in order to complete their assigned tasks, such as preparing food and fulfilling meal orders. Accordingly, Mr. Mendoza and other aggrieved employees missed meal periods and/or had meal periods cut short or interrupted in order to handle their workloads.

Additionally, BICYCLE CASINO has, on a company-wide basis, failed to adhere to a schedule of meal periods. This company-wide practice, coupled with the heavy workload and pressure from BICYCLE CASINO to complete assigned tasks, impeded Mr. Mendoza and other aggrieved employees from taking timely, compliant meal periods. For example, Mr. Mendoza missed meal periods approximately three (3) times per week because he was busy preparing food and fulfilling meal orders. Mr. Mendoza's unpaid meal periods were also interrupted or cut short twice per month, for about 15 minutes per instance, due to BICYCLE CASINO's management asking him to return to work because the kitchen was falling behind on meal orders. Further, because BICYCLE CASINO frowned upon employees accruing meal period penalties, BICYCLE CASINO required Mr. Mendoza and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that BICYCLE CASINO would otherwise owe. Thus, Mr. Mendoza and other aggrieved employees performed work during meal periods for which they were not paid.

Second, BICYCLE CASINO had a company-wide loss prevention policy requiring employees to undergo mandatory security checks once per week by a security guard when entering or leaving the premises. As a result of BICYCLE CASINO's policy, Mr. Mendoza and other aggrieved employees were required to undergo security screenings before clocking in or after clocking out at the end of a shift prior to entering or exiting the premises. For example, Mr. Mendoza and other aggrieved employees were required to wait 1-2 minutes per instance for the security guard to check their bags before clocking in at the beginning of their shifts or after clocking out at the end of their shifts. Although BICYCLE CASINO's requirement that Mr. Mendoza and other aggrieved employees undergo security checks was mandatory, BICYCLE CASINO did not compensate them for the time it took them to wait in line and undergo these checks.

Third, BICYCLE CASINO required employees with food handling duties to obtain California Food Handler Cards, which led to employees completing online food safety training and testing from home, on their off-days, or during their unpaid meal periods, but did not compensate them for this time. For example, other aggrieved employees could spend up to four (4) hours completing mandatory food safety training, but were not paid by BICYCLE CASINO for this time.

BICYCLE CASINO knew or should have known that as a result of these company-wide practices and/or policies, Mr. Mendoza and other aggrieved employees were performing assigned duties during meal periods and off-the-clock before and after their shifts, and were suffered or permitted to

perform work for which they were not paid. Because Mr. Mendoza and other aggrieved employees regularly worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Mendoza and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

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

BICYCLE CASINO's failure to pay Mr. Mendoza 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. Mr. Mendoza 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, due to BICYCLE CASINO's uniform practice of utilizing labor budgets, resultant understaffing, assignment of heavy workloads, failure to adhere to a schedule of meal periods, and subsequent lack of meal period coverage, Mr. Mendoza and other aggrieved employees were forced to forego meal periods and/or had their meal periods interrupted by work. Moreover, as set forth above, in order to prevent employees from accruing meal period penalties, BICYCLE CASINO's management required Mr. Mendoza and other aggrieved employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, but required them to continue working, time for which they were not paid. In addition, BICYCLE CASINO required that Mr. Mendoza and other aggrieved employees perform work off-the-clock after their scheduled shifts, including submitting to off-the-clock security checks and/or completing online trainings.

Further, BICYCLE CASINO implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo a mandatory drug testing, physical examinations, and/or fingerprint-based background checks. At all times, BICYCLE CASINO was in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing and/or examinations. BICYCLE CASINO gave other aggrieved employees strict

instructions to obtain drug testing, physical examinations, and/or fingerprint-based background checks, and other aggrieved employees underwent the testing, examinations, and/or background checks for the sole benefit of BICYCLE CASINO. For example, other aggrieved employees followed BICYCLE CASINO's instructions, traveled in their personal vehicles to and from a designated medical facility in Bell Gardens, California, and spent time waiting for and undergoing the requisite drug testing and physical examinations. As a further example, other aggrieved employees followed BICYCLE CASINO's instructions to obtain the requisite fingerprint-based background checks, and traveled in their personal vehicles to and from the police station in Bell Gardens, California, and underwent the requisite fingerprinting. However, BICYCLE CASINO did not compensate other aggrieved employees for the time they spent traveling to and from the medical facility and/or police station and for the time they spent undergoing the drug testing, physical examinations, and/or fingerprint-based background checks.

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

Mr. Mendoza 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, BICYCLE CASINO had, and continues to have, a company-wide policy and/or practice of understaffing pursuant to its labor budget practices, while simultaneously assigning heavy workloads, which resulted in a lack of meal period coverage and prevented Mr. Mendoza and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally, BICYCLE CASINO failed to adhere to a schedule of meal periods, resulting in Mr.

Mendoza and other aggrieved employees having their meal periods interrupted to return to work or waiting extended periods of time before taking meal periods, due to the workload and pressure to complete assigned tasks. For example, Mr. Mendoza missed meal periods approximately three (3) times per week because he was busy preparing food and fulfilling meal orders. Mr. Mendoza's unpaid meal periods were also interrupted or cut short twice per month, for about 15 minutes per instance, due to BICYCLE CASINO's management asking him to return to work because the kitchen was falling behind on meal orders. Further, because BICYCLE CASINO frowned upon employees accruing meal period penalties, BICYCLE CASINO required Mr. Mendoza and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that BICYCLE CASINO would otherwise owe.

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

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

Furthermore, BICYCLE CASINO engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Mendoza and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that BICYCLE CASINO did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, BICYCLE CASINO did not pay other aggrieved employees at the correct rate of pay for premium wages because BICYCLE CASINO 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, BICYCLE CASINO failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Mendoza 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, BICYCLE CASINO regularly failed to authorize and permit Mr. Mendoza 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, BICYCLE CASINO’s policies and/or practices of utilizing labor budgets, resultant understaffing, and assigning of heavy workloads, prevented Mr. Mendoza and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. BICYCLE CASINO also failed to adhere to a schedule of rest periods, which, coupled with BICYCLE CASINO’s failure to provide adequate rest period coverage, further led to Mr. Mendoza and other aggrieved employees not being authorized and permitted to take rest periods.

Additionally, on information and belief, during the relevant time period, BICYCLE CASINO maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Mendoza and/or other aggrieved employees remain on the work premises during their rest periods. Because Mr. Mendoza and/or other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use rest periods freely for their own purposes. Thus, BICYCLE CASINO effectively maintained control over Mr. Mendoza and/or other aggrieved employees during rest periods and/or caused them to perform work during rest periods.

As a result of BICYCLE CASINO’s practices and policies, Mr. Mendoza 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, during his employment, Mr. Mendoza missed his rest periods 3 days per week due to the heavy workload and the lack of coverage for rest periods. When he was able to take his rest periods, they were cut short 1-2 times per week when supervisors asked him to return early to assist with the busy workload.

BICYCLE CASINO also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Mendoza and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that BICYCLE CASINO did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, BICYCLE CASINO did not pay other aggrieved employees at the correct rate of pay for premium wages because BICYCLE CASINO 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, BICYCLE CASINO failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Mendoza and other aggrieved employees are entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. BICYCLE CASINO has not provided Mr. Mendoza and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, BICYCLE CASINO has knowingly and intentionally provided Mr. Mendoza and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, BICYCLE CASINO issued uniform wage statements to Mr. Mendoza 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, BICYCLE CASINO violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because BICYCLE CASINO did not record the time Mr. Mendoza 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), BICYCLE CASINO did not list the correct amount of gross wages and net wages earned by Mr. Mendoza and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, BICYCLE CASINO failed to accurately list the total number of hours worked by Mr. Mendoza and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

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

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

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

Mr. Mendoza 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.

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

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

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

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

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

For example, other aggrieved employee was instructed by BICYCLE CASINO to travel to a designated medical facility in Bell Gardens, California, and obtain a drug test. Other aggrieved

employee followed BICYCLE CASINO's instructions, traveled to the medical facility BICYCLE CASINO selected, and underwent the testing. However, BICYCLE CASINO did not compensate other aggrieved employees for the time they spent traveling to and from the medical facility, for the time they spent undergoing the drug testing and/or physical examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facility. BICYCLE CASINO's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5.

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

Violation of California Labor Code § 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)

BICYCLE CASINO violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5), because BICYCLE CASINO failed to pay other aggrieved employees reporting time pay when they reported to work for their scheduled shifts, but were put to work for less than half of the regular schedule. BICYCLE CASINO had a company-wide practice of sending other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay other aggrieved employees for half of their scheduled shift. Although other aggrieved employees reported to work based on the schedule that BICYCLE CASINO provided to them, BICYCLE CASINO would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

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

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code

section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

First, as stated, BICYCLE CASINO had a company-wide policy of requiring other aggrieved employees to travel in their own personal vehicles or obtain alternate transportation to undergo mandatory drug testing, physical examinations, and/or fingerprint-based background checks, but did not reimburse them for their travel expenses, including mileage. At all times, BICYCLE CASINO was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. BICYCLE CASINO gave other aggrieved employees strict instructions to obtain fingerprint-based background checks, drug testing and/or physical examinations, and other aggrieved employees underwent the examinations, testing, and/or fingerprint-based background checks for the sole benefit of BICYCLE CASINO. For example, other aggrieved employees followed BICYCLE CASINO's instructions, traveled in their personal vehicles to and from a designated medical facility and police station in Bell Gardens, California to obtain their drug testing, physical examinations, and/or background checks, but were not reimbursed for their mileage to and from these facilities. Although BICYCLE CASINO required other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo mandatory drug testing, physical examinations, and/or fingerprint-based background checks, BICYCLE CASINO never reimbursed them for their travel expenses.

Second, BICYCLE CASINO, on a company-wide basis, required other aggrieved employees to pay for fingerprint-based background checks out-of-pocket. For example, BICYCLE CASINO gave other aggrieved employees a \$75.00 voucher to obtain fingerprinting and I.D. badges from the Bell Gardens Police Department, but required other aggrieved employees to reimburse BICYCLE CASINO through a payroll deduction plan until the voucher was paid back in full.

Third, BICYCLE CASINO, on a company-wide basis, required other aggrieved employees to obtain and pay for certain licenses, such as food handler's permits, that were required for their continued employment, as well as associated costs such as training and examination fees. For example, employees with food handling duties were required to obtain a California Food Handler Card within 30 days from hiring if they wanted to ensure that they would continue to be employed, but did not reimburse them for the costs of obtaining the license. Thus, BICYCLE CASINO failed to reimburse other aggrieved employees for all of the costs of obtaining these licenses, including training and examination fees.

BICYCLE CASINO could have provided Mr. Mendoza and other aggrieved employees with the actual tools for use on the job, such as company vehicles, to be used for fulfilling work-related tasks, or could have reimbursed employees for the costs of their travel; mileage; fingerprint-based background checks; and license, training, and examination fees. Instead, BICYCLE CASINO passed these operating costs off onto Mr. Mendoza and other aggrieved employees. At all relevant times, Mr. Mendoza and other aggrieved employees did not earn at least two (2) times the minimum wage.

Thus, BICYCLE CASINO had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Mendoza and other aggrieved employees are 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.” BICYCLE CASINO, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Mendoza's and other aggrieved employees' rights by violating various sections of the California Labor Code.

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

Therefore, on behalf of all aggrieved employees, Mr. Mendoza 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 Mr. Mendoza's reasonable attempt to settle his dispute with BICYCLE CASINO prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform BICYCLE CASINO of Mr. Mendoza's aforementioned grievances and the proposed remedies as detailed below, while affording BICYCLE CASINO a reasonable opportunity to satisfy Mr. Mendoza's demands.

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

1. BICYCLE CASINO shall pay Mr. Mendoza and all other aggrieved employees employed by BICYCLE CASINO at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. BICYCLE CASINO 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 all reporting time pay.

3. BICYCLE CASINO shall conduct a survey or interview all current and former aggrieved employees in California who worked for BICYCLE CASINO 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 travel; mileage; fingerprint-based background checks; and license, training, and examination fees; or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. BICYCLE CASINO 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. BICYCLE CASINO 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. BICYCLE CASINO shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for BICYCLE CASINO's benefit, including, but not limited to, travel; mileage; fingerprint-based background checks; and license, training, and examination fees; or other expenditures, as required by Labor Code sections 2802 and 222.5.
6. BICYCLE CASINO shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. BICYCLE CASINO shall provide Mr. Mendoza and all aggrieved employees employed by BICYCLE CASINO 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. BICYCLE CASINO 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.
9. BICYCLE CASINO 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:

Michelle Kennedy
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 712-8146

Best Regards,

A handwritten signature in black ink, appearing to read 'Michelle Kennedy', with a stylized, cursive script.

Michelle Kennedy

Copy: THE BICYCLE CASINO, L.P. (via U.S. Certified Mail)

CERTIFIED MAIL



7020 1290 0001 8879 1289

tone

LAW APC

ury Park East, Ste 1000
es, CA 90067

THE BICYCLE CASINO, L.P.
888 BICYCLE CASINO DRIVE
BELL GARDENS, CA 90201



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:

THE BICYCLE CASINO, L.P.
888 BICYCLE CASINO DRIVE
BELL GARDENS, CA 90201



9590 9402 1512 5362 2721 07

2. Article Number (Transfer from service label)

7020 1290 0001 8879 1289

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
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Postage

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Street and Apt. No., 888 BICYCLE CASINO DRIVE

City, State, ZIP+4® BELL GARDENS, CA 90201

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Bicycle Casino,
L.P.

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