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Superior Court of California
County of Stanislaus
Clerk of the Court
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Attorneys for Plaintiff
BELEM VILLA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF STANISLAUS – CITY TOWER COURTHOUSE**

Case No. CV-21-002333

COMPLAINT FOR DAMAGES FOR:

BELEM VILLA, an individual,

Plaintiff,

v.

NOR-CAL CHICKEN, INC., dba EL POLLO
LOCO #3247, BERTHA ALICIA ARMENTA,
RAFAEL ARMENTA, JR., RENEE
ARMENTA, VALENTIN SANCHEZ
MOLINA, MARTIN LOPEZ and DOES 1
through 20, inclusive,

Defendants.

- 1. DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.;**
- 2. HARASSMENT IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.;**
- 3. RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.;**
- 4. FAILURE TO PREVENT DISCRIMINATION, HARASSMENT AND RETALIATION IN VIOLATION OF GOV'T CODE §12940(k);**
- 5. FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.;**
- 6. FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.;**
- 7. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;**
- 8. FAILURE TO PAY WAGES FOR MISSED REST PERIODS (Cal. Lab. Code §226.7);**

This case has been assigned to Judge Speiller, Stacy.

Department Dept. 22 For all purposes including Trial.

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9. **FAILURE TO PAY WAGES FOR MISSED MEAL BREAKS (Cal. Lab. Code § 226.7);**
 10. **FAILURE TO PAY OVERTIME WAGES (Cal. Lab. Code §510);**
 11. **FAILURE TO INDEMNIFY NECESSARY BUSINESS EXPENDITURES (Cal. Lab. Code § 2802);**
 12. **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS (Cal. Lab. Code §226);**
 13. **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW (Cal. Bus. & Prof. Code §§17200 et seq.);**
 14. **DECLARATORY JUDGMENT; AND**
 15. **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE §§ 2699 ET SEQ. (“PAGA”)**
- DEMAND OVER \$25,000**
- DEMAND FOR JURY TRIAL**

COMES NOW PLAINTIFF, BELEM VILLA, and for causes of action against the DEFENDANTS, NOR-CAL CHICKEN, INC., dba EL POLLO LOCO #3247, BERTHA ALICIA ARMENTA, RAFAEL ARMENTA, JR., RENEE ARMENTA, VALENTIN SANCHEZ MOLINA, MARTIN LOPEZ and DOES 1 through 20 (hereinafter “DEFENDANTS”) and each of them, alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction in the matter pursuant to Code of Civil Procedure § 410.10 because the alleged violation and/or injury occurred within the County of Stanislaus, State of California.

2. Venue is proper in this Court pursuant to the provisions of Code of Civil Procedure §§ 395 and 395.5, in that the alleged violation and/or injury occurred and DEFENDANTS’ obligations and liability arose in the County of Stanislaus, State of California.

3. PLAINTIFF seeks damages in excess of \$25,000.

4. PLAINTIFF met all of the jurisdictional requirements for proceedings with claims under the Private Attorneys General act of 2004 (Labor Code § 2698, et. seq., hereinafter, “PAGA”). On February 15, 2021, PLAINTIFF submitted notice of violations electronically to the Labor and Workforce Development Agency (“LWDA”) and also via certified mail to Defendant, NOR-CAL CHICKEN, INC., dba EL POLLO LOCO #3247 to the agent for service of process of the corporate defendant. The LWDA did not respond to the PAGA letter.

5. Each PLAINTIFF is an “aggrieved employee” as that term is defined by PAGA. Labor Code § 2699(C) provides that an “aggrieved employee means any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.”

6. This Court is the proper court, and this action is properly filed in Stanislaus County, because DEFENDANTS' obligations and liability arise therein, because DEFENDANTS maintain offices and transact business within Stanislaus County, and because the work that is the subject of this action was performed by PLAINTIFF in Stanislaus County.

THE PARTIES

7. PLAINTIFF, BELEM VILLA (“VILLA” or “Plaintiff”), is and at all times relevant hereto was a resident of the County of Stanislaus, State of California.

8. DEFENDANTS were PLAINTIFF's employers, joint employers and/or special employers within the meaning of Government Code §§12926, subdivision (d), 12940, and 12950, and regularly employ five (5) or more persons and are therefore subject to the jurisdiction of this Court.

9. PLAINTIFF is informed and believes, and based thereupon alleges, that at all times relevant hereto, DEFENDANT NOR-CAL CHICKEN, INC. DBA EL POLLO LOCO #3247 (hereinafter referred to as “POLLO LOCO”) was and is a California corporation doing business at 2225 Plaza Pkwy, Modesto, County of Stanislaus, California 95350.

10. PLAINTIFF is informed and believes, and based thereupon alleges, that at all times relevant hereto, DEFENDANT, BERTHA ALICIA ARMENTA, was and is an individual resident of the County of Stanislaus, State of California, and is hereinafter individually referred to as (“ARMENTA”). ARMENTA was and is PLAINTIFF’s manager, corporate agent, supervisor, and/or coworker, at POLLO

1 LOCO and is hereinafter referred to as an “INDIVIDUAL DEFENDANT.” ARMENTA is an owner of
2 POLLO LOCO.

3 11. PLAINTIFF is informed and believes, and based thereupon alleges, that at all times
4 relevant hereto, DEFENDANT RAFAEL ARMENTA, JR. was and is an individual resident of the
5 County of Stanislaus, State of California, and is hereinafter individually referred to as (“RAFAEL”).
6 RAFAEL was and is PLAINTIFF’s manager, corporate agent, supervisor, and/or coworker, at POLLO
7 LOCO and is hereinafter referred to as an “INDIVIDUAL DEFENDANT.” RAFAEL is an owner of
8 POLLO LOCO.

9 12. PLAINTIFF is informed and believes, and based thereupon alleges, that at all times
10 relevant hereto, DEFENDANT RENEE ARMENTA was and is an individual resident of the County of
11 Stanislaus, State of California, and is hereinafter individually referred to as (“RENEE”). RENEE was
12 and is PLAINTIFF’s manager, corporate agent, supervisor, and/or coworker, at POLLO LOCO and is
13 hereinafter referred to as an “INDIVIDUAL DEFENDANT.” RENEE is an owner of POLLO LOCO.

14 13. PLAINTIFF is informed and believes and based thereupon alleges, that at all times
15 relevant hereto, DEFENDANT, MARTIN LOPEZ, was and is an individual resident of the County of
16 Stanislaus, State of California, and is hereinafter individually referred to as (“LOPEZ”). LOPEZ was
17 and is Plaintiff’s manager, corporate agent, supervisor, and/or coworker, at POLLO LOCO and is
18 hereinafter referred to as an ‘INDIVIDUAL DEFENDANT.’

19 14. PLAINTIFF is informed and believes, and based thereupon alleges, that at all times
20 relevant hereto, DEFENDANT, VALENTIN SANCHEZ MOLINA was and is an individual resident of
21 the County of Stanislaus, State of California, and is hereinafter individually referred to as (“MOLINA”).
22 MOLINA was PLAINTIFF’s manager, corporate agent, supervisor, and/or coworker, at POLLO LOCO
23 and is hereinafter referred to as an “INDIVIDUAL DEFENDANT.”

24 15. The true names and capacities, whether individual, corporate, associate, or otherwise, of
25 the DEFENDANTS named herein as DOES 1-20, inclusive, are unknown to PLAINTIFF at this time and
26 therefore said DEFENDANTS are sued by such fictitious names. PLAINTIFF will seek leave to amend
27 this complaint to insert the true names and capacities of said Defendants when the same become known
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1 to PLAINTIFF. PLAINTIFF is informed and believes, and based thereupon alleges, that each of the
2 fictitiously named DEFENDANTS is responsible for the wrongful acts alleged herein, and is therefore
3 liable to PLAINTIFF as alleged hereinafter.

4 16. PLAINTIFF is informed and believes, and based thereupon alleges, that at all times
5 relevant hereto, DEFENDANTS, and each of them, were the agents, employees, managing agents,
6 supervisors, owners, coconspirators, parent corporation, joint employers, alter egos, successors, and/or
7 joint ventures of the other DEFENDANTS, and each of them, and in doing the things alleged herein,
8 were acting at least in part within the course and scope of said agency, employment, conspiracy, joint
9 employer, alter ego status, successor status and/or joint venture and with the permission and consent of
10 each of the other DEFENDANTS.

11 17. PLAINTIFF is informed and believes, and based thereupon alleges, that DEFENDANTS,
12 and each of them, including those defendants named as DOES 1-20 and the INDIVIDUAL
13 DEFENDANTS, acted in concert with one another to commit the wrongful acts alleged herein, and aided,
14 abetted, incited, compelled and/or coerced one another in the wrongful acts alleged herein, and/or
15 attempted to do so, including pursuant to Government Code §12940(i). PLAINTIFF is further informed
16 and believes, and based thereupon alleges, that DEFENDANTS, and each of them, including those
17 DEFENDANTS named as DOES 1-20 and the INDIVIDUAL DEFENDANTS, and each of them, formed
18 and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts
19 alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended
20 to cause and actually causing PLAINTIFF harm.

21 18. Whenever and wherever reference is made in this complaint to any act or failure to act by
22 a DEFENDANT or co-DEFENDANT, such allegations and references shall also be deemed to mean the
23 acts and/or failures to act by each DEFENDANT acting individually, jointly and severally.
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25 19. Plaintiff has filed complaints of discrimination, harassment, retaliation, failure to prevent
26 discrimination or retaliation, and wrongful termination under Government Code §§12940, et seq., the
27 California Fair Employment and Housing Act ("FEHA") with the California Department of Fair
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1 Employment and Housing (“DFEH”), and has satisfied Plaintiff’s administrative prerequisites with
2 respect to these and all related filings.

3 **ALTER EGO ALLEGATIONS**

4 20. At all relevant times, as alleged more fully herein, each DEFENDANT acted as an agent,
5 servant, employee, co-conspirator, alter-ego and/or joint venturer of the other DEFENDANTS, and in
6 doing the things alleged herein acted within the course and scope of such agency, employment, alter-ego
7 and/or in furtherance of joint venture. Each of the DEFENDANTS’ acts alleged herein was done with
8 the permission and consent of each of the other DEFENDANTS.

9 21. At all times relevant hereto, DEFENDANT POLLO LOCO, was the alter ego of
10 DEFENDANTS ARMENTA, RENEE, and RAFAEL, and there exists, at all times mentioned herein
11 has existed, a unity of interest and ownership between DEFENDANTS such that any separateness
12 between them has ceased to exist in that DEFENDANTS ARMENTA, RENEE, and RAFAEL,
13 completely controlled, dominated, managed, and operated DEFENDANT POLLO LOCO, to suit their
14 convenience.

15 22. Specifically, at all times relevant hereto, DEFENDANTS ARMENTA, RENEE, AND
16 RAFAEL, (1) controlled the business and affairs of operation of DEFENDANT POLLO LOCO,
17 including any and all of its affiliates; (2) commingled the funds and assets of the corporate entity, and
18 diverted corporate funds and assets for their own personal use; (3) disregarded legal formalities; (4)
19 inadequately capitalized DEFENDANT POLLO LOCO; (5) held themselves out as personally liable for
20 the debts of DEFENDANT POLLO LOCO; (6) used the corporate entity as a mere shell, instrumentality
21 or conduit for themselves and/or their individual business; (7) used the corporate entities to procure labor,
22 services or merchandise for another person or entities; (8) manipulated the assets and liabilities between
23 the corporate entities so as to concentrate the assets in one and the liabilities in another; (9) used the
24 corporate entity to conceal their ownership, management and financial interests and/or personal business
25 activities; and/or (10) used the corporate entity to shield against their personal obligations, and in
26 particular the obligations as alleged in this Complaint.
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1 23. At all times relevant hereto, DEFENDANT POLLO LOCO, was not only influenced and
2 governed by DEFENDANTS ARMENTA, RENEE, and RAFAEL, but there was such a unity of interest
3 and ownership that the individuality, or separateness of DEFENDANTS POLLO LOCO, ARMENTA,
4 RENEE, and RAFAEL, has ceased, and that the facts are such that an adherence to the fiction of the
5 separate existence of these entities would, under the particular circumstances, sanction a fraud or promote
6 injustice.

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8 **FACTS COMMON TO ALL CAUSES OF ACTION**

9 24. All facts contained herein are based on PLAINTIFF's information and belief.

10 25. DEFENDANTS own and operate a restaurant called EL POLLO LOCO
11 ("RESTAURANT"), at 2225 Plaza Pkwy, Modesto, County of Stanislaus, California 95350.
12 DEFENDANTS employ five (5) or more individuals in hourly, non-exempt positions.

13 26. From on or about October 21, 2016 until present ("relevant time period"), VILLA was
14 employed by DEFENDANTS POLLO LOCO, ARMENTA, RENEE, RAFAEL, MOLINA, and LOPEZ
15 at the RESTAURANT. VILLA remains employed at the RESTAURANT at the time of this filing.

16 27. VILLA was hired by DEFENDANTS on or about October 21, 2016 as a cook at the
17 RESTAURANT.

18 28. At the time of VILLA's hire, she did not know that the RESTAURANT would be a place
19 of harassment, humiliation, discrimination, and emotional distress.

20 29. On or about late 2018, VILLA was promoted by the DEFENDANTS to the position of
21 Assistant Store Manager. During the relevant time period, VILLA worked and continues to work as an
22 Assistant Store Manager at the RESTAURANT. VILLA never received a raise after she was promoted
23 to Assistant Store Manager after repeated requests to the DEFENDANTS for same.

24 30. During the relevant time period, VILLA was and is currently paid \$14 per hour.

25 31. Beginning on or about May of 2018, and continuing until on or about February of 2021,
26 VILLA's immediate supervisor and store manager, MOLINA engaged in harassing and sexually charged
27 behavior against VILLA.
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1 32. Beginning on or about May of 2018, in the small confines of the RESTAURANT food
2 preparation area, while VILLA was standing at her work - station, MOLINA rubbed his penis against
3 VILLA's buttocks as he passed her. MOLINA pressed his penis and moved his hips in a back and forth
4 motion in direct contact with VILLA's buttocks. VILLA, shocked and distressed by this, recoiled and
5 told MOLINA, "why are you doing that! Will you stop!" MOLINA laughed at VILLA when she
6 expressed her protestations. This particular behavior continued approximately three times per week until
7 MOLINA separated from his employment with POLLO LOCO.

8 33. On or about January of 2019, while VILLA stood facing MOLINA in a small room in the
9 back of the RESTAURANT, MOLINA told VILLA, "turn around so that I can rub myself against your
10 ass." VILLA's co-worker, Silvia Guerrero, observed this.

11 34. During the relevant time period, other female employees were harassed by MOLINA.

12 35. On or about February of 2019, VILLA and at least six (6) other female employees
13 requested to meet with and attended a meeting with RENEE and RAFAEL, owners of POLLO LOCO.
14 At the meeting, VILLA described the harassing behavior and abuse she endured by MOLINA. Other
15 employees, including Maria Soto ("SOTO") also complained about similar behavior engaged in by
16 MOLINA. All of the employees who attended the meeting, including VILLA cried when they explained
17 the distress, emotional trauma, and humiliation they suffered by the predatory acts of MOLINA.

18 36. At that meeting, on or about February of 2019, RENEE and RAFAEL promised VILLA
19 and the other employees in attendance that they would terminate MOLINA's employment immediately.
20 But this was a broken promise. MOLINA remained employed by the DEFENDANTS as a supervisor, a
21 position of authority, and continued to harass and prey upon VILLA and other female employees, with
22 impunity.

23 37. On or about February of 2019, MOLINA, upon hearing about the employee complaints
24 that were made to RENNE and RAFAEL, terminated SOTO and another female employee.

25 38. On or about March of 2019, VILLA was again, present in the small confines of the
26 RESTAURANT food preparation area. VILLA was bending down to pick up food from the food warmer.
27 While VILLA was in this vulnerable bent over position, MOLINA approached VILLA from behind and
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1 menacingly told VILLA, "bend over more so I can get a better view." MOLINA touched VILLA on her
2 legs and her crotch without invitation.

3 39. On or about June of 2019, MOLINA summoned VILLA to a back room at the
4 RESTAURANT. This back room is the only room at the RESTAURANT that does not contain security
5 cameras. VILLA entered the room. MOLINA closed the door and turned to face VILLA. MOLINA
6 then pulled his pants tight across his crotch area to draw attention to the bulge created by his penis,
7 pointed to his penis, and shouted to VILLA, "Look! Look!" MOLINA stated, "Touch me. Look how
8 hard my arms, legs, and chest are." VILLA, speechless, backed out of the room and left.

9 40. On or about June of 2019 and continuing on a regular basis during the relevant time period,
10 MOLINA continued to harass VILLA. When VILLA was working in the food preparation area of the
11 RESTAURANT, MOLINA would cut up chicken parts in VILLA's presence. MOLINA cut the neck of
12 the chicken and threw the chicken neck at VILLA. While throwing the chicken neck at VILLA,
13 MOLINA stated, "Look how big this neck is! Look how big the head is!" VILLA took this statement,
14 along with MOLINA laughing and smirking while he spoke, as a purposely sexual overture, obviously
15 comparing the chicken neck with a penis.

16 41. On or about January of 2020, while VILLA and other co-workers were together in a room
17 at the RESTAURANT, MOLINA mocked VILLA by stating, "Belem (VILLA) is toxic! She is the black
18 sheep around here. She is fat, old, and has a lot of fat rolls on her back."

19 42. On or about January of 2020, MOLINA confronted VILLA at work and told her, "you are
20 so old and fat. Your face is so old, and you act so seriously with me! All I want is for you (VILLA) to
21 pay attention to me and spend time with me outside of work."

22 43. On or about June of 2020, VILLA told MOLINA, that she is entitled to a 10-minute rest
23 break. MOLINA became angry and retaliated against VILLA. MOLINA told VILLA, "If you don't like
24 it here, then leave! Punch out and leave! In a few days, I will fire you anyway because you complain
25 about me all the time." VILLA was forced to leave work that day and was not permitted to work a full
26 day of work because of MOLINA's overt retaliation. This inability to work a full-time work week caused
27 financial harm to VILLA.
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1 44. On or about June of 2020, MOLINA approached VILLA. Standing in front of VILLA,
2 MOLINA produced a small backpack. MOLINA told VILLA, "look what I have inside this bag!"
3 VILLA looked inside the backpack and observed a handgun. MOLINA told VILLA, "Look, I brought
4 this gun. I brought it because I plan on using it on you if you try to 'pull a fast one.'" MOLINA further
5 told VILLA, "I will empty this clip on you and the other workers here! You, (referring to VILLA), refuse
6 to touch my heart!" During this same encounter, MOLINA told VILLA, "Nobody will go against me.
7 You do whatever you want to do! I do not care! RENEE and RAFAEL won't do anything to me! Go
8 ahead, talk to the owners and tell them whatever you want. I do not care! I am the devil, and no one can
9 go against me!" Then, MOLINA told VILLA to punch out and sent her home for the day. Again,
10 MOLINA's retaliation against VILLA caused her to lose income by his decision to cut VILLA's hours.

11 45. During the relevant time-period, MOLINA engaged in continued retaliation against
12 VILLA by constantly criticizing her job performance and wrongfully accusing her of insufficient
13 performance. On or about August 25, 2020, MOLINA summoned VILLA to speak with him in the walk-
14 in refrigerator. VILLA entered the walk-in refrigerator and MOLINA told VILLA, "you left a container
15 of uncovered chicken in the walk-in refrigerator! You can't do that!" VILLA told MOLINA, "I did not
16 leave the chicken in here.". MOLINA, enraged with VILLA's response, charged out of the walk-in
17 refrigerator and slammed the door, which struck VILLA's thigh leaving a visible bruise. On or about
18 August 25, 2020, VILLA reported this incident to Martin Lopez ("LOPEZ"), a supervisor at POLLO
19 LOCO. LOPEZ told VILLA that he would talk to MOLINA and tell MOLINA to stop his behavior.
20 LOPEZ did not discipline MOLINA and MOLINA remained a supervisor, in a position of authority and
21 control over VILLA. MOLINA's abuse continued against VILLA.
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23 46. On or about October 13, 2020, VILLA injured herself at work when she lifted a heavy
24 box of chicken causing her great pain. VILLA's arms were injured and weakened by this injury which
25 made it difficult for VILLA to lift heavy items. VILLA became physically disabled because of the work
26 she was required to engage in at the DEFENDANTS' workplace. VILLA notified MOLINA of her
27 injury.
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1 47. On or about November of 2020, MOLINA told VILLA to move some boxes of food that
2 weighed over seventy-five (75) pounds, a task that VILLA did not regularly perform. VILLA asked
3 MOLINA if she could work her regular job, which is less physically demanding, as a reasonable
4 accommodation due to her injury. MOLINA rejected VILLA's request and stated, "no, go do what I told
5 you to do!" Then MOLINA reduced VILLA's work hours and days worked, drastically reducing
6 VILLA's wages and income. The DEFENDANTS never attempted to accommodate VILLA in regard
7 to her disability. The DEFENDANTS failed to engage in the interactive process with VILLA to
8 accommodate VILLA's disability.

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10 48. On or about November 25, 2020, MOLINA brought gifts of food, donuts, cake, and coffee
11 for VILLA's co-workers. MOLINA made a point not to give any of the items to VILLA. MOLINA
12 ridiculed VILLA in the presence of her colleagues, stating, "Look! Belem (VILLA) is fat, old, and no
13 fun!"

14 49. On or about Sunday, November 29, 2020, VILLA reported to work at 7:30 A.M. VILLA
15 took her meal break at 11:30 A.M. After fifteen (15) minutes into VILLA's meal break, MOLINA
16 approached VILLA and told her, "punch out and go home!" MOLINA further stated, "do whatever you
17 want. Talk to the owners! I don't care! The owners don't do anything to me! An employee leaves, and
18 another one will replace her." VILLA left work and was unable to work the full day that she was
19 scheduled, suffering financial harm as a result.

20 50. On or about December of 2020, MOLINA, in his continuing pattern of harassment and
21 retaliation, disposed of the contents of a large garbage can, containing discarded chicken pieces, on the
22 ground outside in the parking lot of the RESTAURANT. MOLINA smeared the chicken parts all over
23 the ground. Then MOLINA told VILLA, "clean up your mess!" VILLA, out of fear of losing her job,
24 proceeded to clean the raw chicken from the parking lot. MOLINA engaged in this garbage and chicken
25 dump canard on several occasions during the relevant time period.

26 51. On or about December of 2020, after VILLA continued to resist MOLINA's sexual
27 advances, MOLINA, who controlled VILLA's schedule, retaliated against VILLA by reducing her work
28 hours which caused her a significant reduction in her income.

1 52. VILLA is 43 years old, at the time of this filing, and MOLINA deliberately and purposely
2 demanded that VILLA perform work duties that require heavier lifting and greater stamina than tasks
3 given to younger and non-disabled workers. MOLINA also reduced Villa's hours but permitted non-
4 disabled and younger workers to work less strenuous jobs and more hours.

5 53. The DEFENDANTS engaged in harassing, discriminating, and discriminatory behaviour
6 against VILLA as alleged herein. The DEFENDANTS failed to stop the harassing and discriminating
7 behavior inflicted upon VILLA by her supervisors and co-workers. This has caused VILLA a great
8 amount of humiliation, embarrassment, physical, psychological, and emotional harm.

9 54. MOLINA separated from employment with the DEFENDANTS on or about February of
10 2021.

11 55. During the relevant time period, DEFENDANTS failed to pay workers proper overtime
12 wages when they worked in excess of eight (8) hours per day. DEFENDANTS failed to pay its
13 employees, including VILLA, meal-break compensation for missed or late statutory mandated breaks.
14 DEFENDANTS also failed to pay its employees, including VILLA, rest-break compensation for missed
15 or late statutory mandated breaks. DEFENDANTS did not provide work schedules (and/or sufficient
16 staff) to permit employees to take rest breaks. DEFENDANTS were aware that employees' workloads
17 prevented them from taking breaks but did not take any action to relieve the employees from their duties.

18 56. During the relevant time period, VILLA was required to drive her own car and pay for her
19 own gas to deliver food for the DEFENDANTS. Despite repeated requests for reimbursement, the
20 DEFENDANTS failed to reimburse her.

21 57. Prior to filing this action, VILLA filed a complaint with the department of Fair
22 Employment and Housing, which included the allegations underlying the claims set forth herein, and was
23 issued a Right-to-Sue letter on February 8, 2021 which is attached as "**Exhibit A**" and is incorporated
24 herein by reference.
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FIRST CAUSE OF ACTION
FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST POLLO LOCO AND DOES 1-20

58. PLAINTIFF re-alleges and incorporates by reference all paragraphs in this complaint, as though set forth in full herein.

59. At all times hereto, the FEHA was in full force and effect and was binding upon DEFENDANTS and each of them.

60. As such term is used under FEHA, “on the bases enumerated in this part” means or refers to discrimination on the bases of one or more of the protected characteristics under FEHA.

61. FEHA requires DEFENDANTS to refrain from discriminating against an employee on the basis of sex, age, disability and/or medical condition, real or perceived, and to prevent discrimination and harassment on the basis of disability and/or medical condition, real or perceived, use of medical leave, and engagement in protected activities from occurring.

62. PLAINTIFF was a member of multiple protected classes as a result of PLAINTIFF’s sex, age, disability, medical condition and/or the perception that PLAINTIFF was suffering from a disability and/or medical condition.

63. At all times relevant hereto, PLAINTIFF was performing competently in the positions PLAINTIFF held with DEFENDANTS.

64. PLAINTIFF suffered the adverse employment actions of unlawful harassment, discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate and/or return to work, and termination, and was harmed thereby.

65. PLAINTIFF is informed and believes that PLAINTIFF’s disability and/or medical condition, real and perceived, and/or some combination of these protected characteristics under Government Code §12926(j) were motivating reasons and/or factors in the decisions to subject PLAINTIFF to the aforementioned adverse employment actions.

66. Said conduct violates the FEHA, and such violations were a proximate cause in PLAINTIFF’s damage as stated below.

67. The damage allegations contained in all the paragraphs of this complaint are herein incorporated by reference.

68. The foregoing conduct of DEFENDANTS individually, or by and through their owners, officers, directors and/or managing agents, was intended by the DEFENDANTS to cause injury to the PLAINTIFF or was despicable conduct carried on by the DEFENDANTS with a willful and conscious disregard of the rights of PLAINTIFF or subjected PLAINTIFF to cruel and unjust hardship in conscious disregard of PLAINTIFF's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling PLAINTIFF to punitive damages in an amount appropriate to punish or make an example of DEFENDANTS.

69. Pursuant to Government Code §12965(b), PLAINTIFF requests a reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

SECOND CAUSE OF ACTION
FOR HARASSMENT IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST ALL DEFENDANTS

70. PLAINTIFF re-alleges and incorporates by reference all paragraphs in this complaint, as though set forth in full herein.

71. At all times hereto, the FEHA was in full force and effect and was binding upon DEFENDANTS and each of them.

72. As such term is used under FEHA, “on the bases enumerated in this part” means or refers to harassment on the bases of one or more of the protected characteristics under FEHA.

73. These laws set forth in the preceding paragraph require DEFENDANTS to refrain from harassing, or creating, or maintaining a hostile work environment against an employee based upon the employee's sex, age, disability and/or medical condition, real or perceived, use of medical leave, and engagement in protected activities, as set forth hereinabove.

74. DEFENDANTS' harassing conduct was severe or pervasive, was unwelcome by PLAINTIFF, and a reasonable person in PLAINTIFF's circumstances would have considered the work environment to be hostile or abusive.

1 75. DEFENDANTS violated the FEHA and the public policy of the State of California which
2 is embodied in the FEHA by creating a hostile work environment and harassing PLAINTIFF because of
3 PLAINTIFF's sex, age, disability and/or medical condition, real or perceived, engagement in protected
4 activities, and/or some combination of these protected characteristics, as set forth hereinabove.

5 76. The above said acts were perpetrated upon PLAINTIFF by a supervisor, and/or
6 DEFENDANTS knew or should have known of the conduct but failed to take immediate and appropriate
7 corrective action.

8 77. The above said acts of DEFENDANTS constitute violations of the FEHA and violations
9 of the public policy of the State of California. Such violations were a proximate cause in PLAINTIFF's
10 damage as stated below.

11 78. The damage allegations contained in all paragraphs of this complaint, are herein
12 incorporated by reference.

13 79. The foregoing conduct of DEFENDANTS individually, or by and through their owners,
14 officers, directors and/or managing agents, was intended by the DEFENDANTS to cause injury to the
15 PLAINTIFF or was despicable conduct carried on by the DEFENDANTS with a willful and conscious
16 disregard of the rights of PLAINTIFF or subjected PLAINTIFF to cruel and unjust hardship in conscious
17 disregard of PLAINTIFF's rights such as to constitute malice, oppression, or fraud under Civil Code
18 §3294, thereby entitling PLAINTIFF to punitive damages in an amount appropriate to punish or make
19 an example of DEFENDANTS.

20 80. Pursuant to Government Code §12965(b), PLAINTIFF requests a reasonable award of
21 attorneys' fees and costs, including expert fees pursuant to the FEHA.
22

23
24 **THIRD CAUSE OF ACTION**
25 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
26 **AGAINST POLLO LOCO AND DOES 1-20**

27 81. PLAINTIFF re-alleges and incorporates by reference all paragraphs in this complaint, as
28 though set forth in full herein.

1 82. At all times hereto, the FEHA was in full force and effect and was binding upon
2 DEFENDANTS and each of them.

3 83. These laws set forth in the preceding paragraph require DEFENDANTS to refrain from
4 retaliating against an employee for engaging in protected activity.

5 84. PLAINTIFF engaged in the protected activities of requesting accommodation and
6 complaining about and protesting DEFENDANTS' discriminatory and harassing conduct towards
7 PLAINTIFF based upon PLAINTIFF's sex, age, disability, and medical condition, real or perceived.

8 85. PLAINTIFF suffered the adverse employment actions of unlawful harassment,
9 discrimination, failure to accommodate, failure to investigate, remedy, and was harmed thereby.

10 86. PLAINTIFF is informed and believes that PLAINTIFF's request for accommodation,
11 complaints and protestations about DEFENDANTS' discriminatory and harassing conduct, and/or some
12 combination of these factors, were motivating reasons and/or factors in the decisions to subject
13 PLAINTIFF to the aforementioned adverse employment actions.

14 87. DEFENDANTS violated the FEHA by retaliating against PLAINTIFF for attempting to
15 exercise PLAINTIFF's protected rights, as set forth hereinabove.

16 88. PLAINTIFF is informed and believes, and based thereon alleges, that the above acts of
17 retaliation committed by DEFENDANTS were done with the knowledge, consent, and/or ratification of,
18 or at the direction of, each other Defendant.

19 89. The above said acts of DEFENDANTS constitute violations of the FEHA, and were a
20 proximate cause in PLAINTIFF's damage as stated below.

21 90. The damage allegations contained in all paragraphs of this complaint, are herein
22 incorporated by reference.

23 91. The foregoing conduct of DEFENDANTS individually, or by and through their owners,
24 officers, directors and/or managing agents, was intended by the DEFENDANTS to cause injury to the
25 PLAINTIFF or was despicable conduct carried on by the DEFENDANTS with a willful and conscious
26 disregard of the rights of PLAINTIFF or subjected PLAINTIFF to cruel and unjust hardship in conscious
27 disregard of PLAINTIFF's rights such as to constitute malice, oppression, or fraud under Civil Code
28

1 §3294, thereby entitling PLAINTIFF to punitive damages in an amount appropriate to punish or make
2 an example of DEFENDANTS.

3 92. Pursuant to Government Code §12965(b), PLAINTIFF requests a reasonable award of
4 attorneys' fees and costs, including expert fees pursuant to the FEHA.

5
6 **FIRST CAUSE OF ACTION**
7 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**
8 **IN VIOLATION OF GOV'T CODE §12940(k)**
9 **AGAINST POLLO LOCO AND DOES 1-20**

10 93. PLAINTIFF re-alleges and incorporates by reference all paragraphs in this complaint, as
11 though set forth in full herein.

12 94. At all times hereto, the FEHA, including in particular Government Code §12940(k), was
13 in full force and effect and was binding upon DEFENDANTS. This subsection imposes a duty on
14 DEFENDANTS to take all reasonable steps necessary to prevent discrimination, harassment, and
15 retaliation from occurring. As alleged above, DEFENDANTS violated this subsection and breached their
16 duty by failing to take all reasonable steps necessary to prevent discrimination, harassment and retaliation
17 from occurring.

18 95. The above said acts of DEFENDANTS constitute violations of the FEHA, and were a
19 proximate cause in PLAINTIFF's damage as stated below.

20 96. The damage allegations contained in all paragraphs of this complaint, are herein
21 incorporated by reference.

22 97. The foregoing conduct of DEFENDANTS individually, or by and through their owners,
23 officers, directors and/or managing agents, was intended by the DEFENDANTS to cause injury to the
24 PLAINTIFF or was despicable conduct carried on by the DEFENDANTS with a willful and conscious
25 disregard of the rights of PLAINTIFF or subjected PLAINTIFF to cruel and unjust hardship in conscious
26 disregard of PLAINTIFF's rights such as to constitute malice, oppression, or fraud under Civil Code
27 §3294, thereby entitling PLAINTIFF to punitive damages in an amount appropriate to punish or make
28 an example of DEFENDANTS.

1 98. Pursuant to Government Code §12965(b), PLAINTIFF requests a reasonable award of
2 attorneys' fees and costs, including expert fees pursuant to the FEHA.

3 **FIFTH CAUSE OF ACTION**
4 **FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**
5 **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
6 **AGAINST POLLO LOCO AND DOES 1-20**

7 99. PLAINTIFF re-alleges and incorporates by reference the other paragraphs of this
8 complaint, as though set forth in full herein.

9 100. At all times hereto, the FEHA, including in particular Government Code §12940(m), was
10 in full force and effect and was binding upon DEFENDANTS. This subsection imposes an ongoing duty
11 on DEFENDANTS to make reasonable accommodation for the known physical disability and/or medical
12 condition of an employee.

13 101. At all relevant times, PLAINTIFF was a member of a protected class within the meaning
14 of, in particular, Government Code §§12940(a) & 12986(1) et seq. because PLAINTIFF had a disability,
15 a physical condition that affected PLAINTIFF's major life activities, and medical condition of which
16 DEFENDANTS had both actual and constructive knowledge.

17 102. At all times herein, PLAINTIFF was willing and able to perform the duties and functions
18 of the positions in which PLAINTIFF was employed, or could have performed the duties and functions
19 of that position with reasonable accommodations. At no time would the performance of the functions of
20 the employment position, with a reasonable accommodation for PLAINTIFF's disability or medical
21 condition, actually or as it was perceived by DEFENDANTS, have been a danger to PLAINTIFF's or
22 any other person's health or safety. Accommodation of PLAINTIFF's disability or disability or medical
23 condition, real or perceived by DEFENDANTS, would not have imposed an undue hardship on
24 DEFENDANTS. DEFENDANTS failed and refused to accommodate PLAINTIFF's disability, failed to
25 engage in the interactive process with PLAINTIFF and continue to violate this obligation, through the
26 present and ongoing.

27 103. The above said acts of DEFENDANTS constitute violations of the FEHA, and were a
28 proximate cause in PLAINTIFF's damage as stated below.

104. The damage allegations contained in all paragraphs of this complaint, are herein incorporated by reference.

105. The foregoing conduct of DEFENDANTS individually, and/or by and through their owners, officers, directors, and/or managing agents, was intended by the DEFENDANTS to cause injury to the PLAINTIFF or was despicable conduct carried on by the DEFENDANTS with a willful and conscious disregard of the rights of PLAINTIFF or subjected PLAINTIFF to cruel and unjust hardship in conscious disregard of PLAINTIFF's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling PLAINTIFF to punitive damages in an amount appropriate to punish or make an example of DEFENDANTS.

106. Pursuant to Government Code §12965(b), PLAINTIFF requests a reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

SIXTH CAUSE OF ACTION
FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS
IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST POLLO LOCO AND DOES 1-20

107. PLAINTIFF re-alleges and incorporates by reference all paragraphs contained in this complaint, as though set forth in full herein.

108. At all times hereto, the FEHA, including in particular Government Code §12940(n), was in full force and effect and was binding upon DEFENDANTS. This subsection imposes an ongoing duty on DEFENDANTS to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee with a known physical disability or known medical condition and/or becoming aware of the employee's need for accommodation.

109. At all relevant times, PLAINTIFF was a member of a protected class within the meaning of, in particular, Government Code §§12940(a) & 12986(1) et seq. because PLAINTIFF had a physical disability that affected PLAINTIFF's major life activities, and medical condition of which DEFENDANTS had both actual and constructive knowledge.

110. PLAINTIFF reported the disability to DEFENDANTS and requested accommodation, triggering DEFENDANTS' obligation to engage in the interactive process with PLAINTIFF, but at all times herein, DEFENDANTS failed and refused to do so. Thereafter, despite DEFENDANTS continuing obligation to engage in the interactive process with PLAINTIFF, despite PLAINTIFF's desire to continue working in some capacity, DEFENDANTS failed and refused to have any dialogue with PLAINTIFF whatsoever. DEFENDANTS violated and continue to violate this obligation through the present and ongoing.

111. The above said acts of DEFENDANTS constitute violations of the FEHA, and were a proximate cause in PLAINTIFF's damage as stated below.

112. The damage allegations contained in all paragraphs of this, are herein incorporated by reference.

113. The foregoing conduct of DEFENDANTS individually, and/or by and through their owners, officers, directors, and/or managing agents, was intended by the DEFENDANTS to cause injury to the PLAINTIFF or was despicable conduct carried on by the DEFENDANTS with a willful and conscious disregard of the rights of PLAINTIFF or subjected PLAINTIFF to cruel and unjust hardship in conscious disregard of PLAINTIFF's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling PLAINTIFF to punitive damages in an amount appropriate to punish or make an example of DEFENDANTS.

114. Pursuant to Government Code §12965(b), PLAINTIFF requests a reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

SEVENTH CAUSE OF ACTION
FOR WRONGFUL TERMINATION
IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA
AGAINST POLLO LOCO AND DOES 1-20

115. PLAINTIFF re-alleges and incorporates by reference all paragraphs contained in this complaint, as though set forth in full herein.

1 116. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
2 and was binding on DEFENDANTS. This law requires DEFENDANTS to refrain, among other things,
3 from discriminating against any employee on the basis of sex, age, disability, medical condition, real or
4 perceived, and use of medical leave, and from retaliating against any employee who engages in protected
5 activity. At all times mentioned in this complaint, Article I, Section 8 of the California Constitution was
6 in full force and effect and binding on DEFENDANTS. This law requires DEFENDANTS to refrain
7 from disqualifying a person from pursuing employment on the basis of sex or physical disability.

8 117. At all times mentioned in this complaint, it was a fundamental policy of the State of
9 California that DEFENDANTS cannot discriminate and/or retaliate against any employee on the basis of
10 sex, age, disability, medical condition, real or perceived, use of medical leave and/or engagement in
11 protected activity.

12 118. PLAINTIFF believes and thereon alleges that PLAINTIFF's sex, age, disability and/or
13 medical condition, real or perceived, use of medical leave, engagement in protected activity with respect
14 to these protected classes, and/or some combination thereof, were factors in DEFENDANTS' conduct as
15 alleged hereinabove.

16 119. Such discrimination and retaliation, resulting in the reduction of hours and other adverse
17 employment actions related to PLAINTIFF's employment on the basis of sex, age, disability, medical
18 condition, real or perceived, or use of medical leave, PLAINTIFF's complaining of harassment and
19 discrimination due to these protected classes, PLAINTIFF's engagement in protected activity, and/or
20 some combination of these factors, were a proximate cause in PLAINTIFF's damages as stated below.

21 120. The above said acts of DEFENDANTS constitute violations of the Government Code and
22 the public policy of the State of California embodied therein as set forth above. DEFENDANTS violated
23 these laws by discriminating and retaliating against PLAINTIFF and terminating PLAINTIFF's
24 employment in retaliation for exercise of protected rights.

25 121. At all times mentioned in this complaint, it was a fundamental policy of the State of
26 California that DEFENDANTS cannot discriminate and/or retaliate against any employee in violation of
27 FEHA.
28

122. PLAINTIFF is informed and believes, and based thereupon alleges, that PLAINTIFF's status as a protected member of the class under FEHA was a proximate cause in PLAINTIFF's damages as stated below.

123. The damage allegations contained in all of the paragraphs in this complaint, are herein incorporated by reference.

124. The foregoing conduct of DEFENDANTS individually, or by and through their owners, officers, directors and/or managing agents, was intended by the DEFENDANTS to cause injury to the PLAINTIFF or was despicable conduct carried on by the DEFENDANTS with a willful and conscious disregard of the rights of PLAINTIFF or subjected PLAINTIFF to cruel and unjust hardship in conscious disregard of PLAINTIFF's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling PLAINTIFF to punitive damages in an amount appropriate to punish or make an example of DEFENDANTS.

125. Pursuant to Government Code §12965(b), PLAINTIFF requests a reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

EIGHTH CAUSE OF ACTION
FOR FAILURE TO PAY WAGES FOR MISSED REST PERIODS IN VIOLATION OF
CALIFORNIA LABOR CODE §§ 226.7, INDUSTRIAL WELFARE COMMISSION WAGE
ORDER 5-2001 AND 8 CALIFORNIA CODE OF REGULATIONS §11050
AGAINST ALL DEFENDANTS

126. PLAINTIFF incorporates herein each and every allegation contained in the preceding paragraphs of the complaint as if alleged fully herein.

127. *Wage Order No. 5-2001* requires an employer to provide an employee an uninterrupted 10-minute rest break for every four (4) hours worked or major fraction thereof.

128. *Wage Order No. 5-2001* requires an employer to pay an employee an additional hour of compensation for every workday that the rest period is not provided. *California Labor Code §226.7* likewise requires an employer to pay an employee an additional hour of compensation for every workday that a rest period mandated by the California Wage Order is not provided.

1 129. Here, during the relevant time period, while PLAINTIFF was employed as a non-exempt
2 employee, DEFENDANTS failed to authorize or permit PLAINTIFF to take an uninterrupted 10-minute
3 rest break for every four (4) hours worked or major fraction thereof. DEFENDANTS instead required
4 PLAINTIFF to work and to be ready to work at all times, including during rest periods. PLAINTIFF was
5 required to and did work during their rest periods. As such, PLAINTIFF was not relieved of all duty
6 during rest periods and/or was denied rest periods altogether. Furthermore, DEFENDANTS would
7 impede, discourage and/or prohibit PLAINTIFF from taking rest periods.

8 130. Pursuant to *California Labor Code §226.7* and *Wage Order Number 5-2001*,
9 DEFENDANTS are obligated to pay PLAINTIFF one additional hour of pay for each workday that the
10 rest period was not provided.

11
12 **NINTH CAUSE OF ACTION**
13 **FAILURE TO PAY WAGES FOR MISSED MEAL PERIODS IN VIOLATION OF**
14 **CALIFORNIA LABOR CODE §§ 226.7, INDUSTRIAL WELFARE COMMISSION WAGE**
 ORDER 5-2001 AND 8 CALIFORNIA CODE OF REGULATIONS §11050
 AGAINST ALL DEFENDANTS

15 131. PLAINTIFF incorporates herein each and every allegation contained in the preceding

16 132. paragraphs of the complaint as if alleged fully herein.

17 133. *Wage Order No. 5-2001* requires that employers must provide uninterrupted 30-minute
18 meal breaks after every five hours worked.

19 134. *Wage Order No. 5-2001* requires an employer to pay an employee an additional hour of
20 compensation for every workday that the meal break is not provided. California Labor Code §226.7
21 likewise requires an employer to pay an employee an additional hour of compensation for every workday
22 that a meal break period mandated by the California Wage Order is not provided.

23 135. Here, during the relevant time period, while PLAINTIFF was employed as a non-exempt
24 employee, DEFENDANTS failed to authorize or permit PLAINTIFF to take an uninterrupted 30-minute
25 rest break for every five (5) hours worked or major fraction thereof. DEFENDANTS instead required
26 PLAINTIFF to work and to be ready to work at all times, including during rest periods. PLAINTIFF was
27 required to and did work during her meal break periods. As such, PLAINTIFF was not relieved of all
28

1 duty during meal periods and/or was denied meal break periods altogether. Furthermore, DEFENDANTS
2 would impede, discourage and/or prohibit PLAINTIFF from taking meal break periods.

3 136. Pursuant to *California Labor Code §226.7* and *Wage Order Number 5-2001*,
4 DEFENDANTS are obligated to pay PLAINTIFF one additional hour of pay for each workday that the
5 meal break period was not provided.

6 **TENTH CAUSE OF ACTION**
7 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF**
8 **CALIFORNIA LABOR CODE §§ 226.7, INDUSTRIAL WELFARE COMMISSION**
9 **WAGE ORDER 5-2001 AND 8 CALIFORNIA CODE OF REGULATIONS §11050**
10 **AGAINST ALL DEFENDANTS**

11 137. PLAINTIFF incorporates herein each and every allegation contained in the preceding
12 paragraphs of the complaint as if alleged fully herein.

13 138. *California Labor Code § 510* provides:

14 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday
15 and any work in excess of 40 hours in any one workweek ... shall be compensated at the rate of
16 no less than one and one-half times the regular rate of pay for an employee. Any work in excess
17 of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of
18 pay for an employee.

19 139. *California Labor Code §1198* provides that it is unlawful to employ an employee for
20 longer than the hours set by the Industrial Welfare Commission.

21 140. Industrial Welfare Commission *Wage Order Number 5-2001* provides:

22 [E]mployees shall not be employed more than eight (8) hours in any workday or more than 40
23 hours in any workweek unless the employee receives one and one-half (1 ½) times such
24 employee's regular rate of pay for any hours worked over 40 hours in the workweek. Eight (8)
25 hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday ...
26 is permissible provided the employee is compensated for such overtime at not less than:

27 (a) One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess
28 of eight (8) hours up to and including twelve (12) hours in any workday....

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any
workday....

141. *California Labor Code §1194* provides that any employee receiving less than the legal
overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid
balance of the full amount of this overtime compensation including interest thereon, reasonable attorney's
fees, and costs of suit.

142. Here, during the relevant time period, while PLAINTIFF was employed as a non-exempt employee, she was required by DEFENDANTS to work over eight hours per day and/or over 40 hours per week.

143. DEFENDANTS failed to pay PLAINTIFF her overtime wages. Thus, DEFENDANTS violated *California Labor Code* §§ 510, 1194, 1198, and Wage Order Number 5-2001.

144. PLAINTIFF is informed and believes, and based thereon alleges, that DEFENDANTS' failure to pay PLAINTIFF his overtime wages was done willfully.

145. As a result of DEFENDANTS' failure to pay PLAINTIFF her overtime wages, PLAINTIFF was not timely paid all earned wages as required by *California Labor Code* §§ 201, 204.

146. Under *Labor Code* § 1194(a), PLAINTIFF requests that the Court award PLAINTIFF reasonable attorney's fees and costs incurred by her in this action.

147. Under *California Labor Code* §§ 218.6 and 1194(a), PLAINTIFF requests that the Court award PLAINTIFF interest on all due and unpaid wages, at the legal rate specified by *California Civil Code* § 3289(b), accruing from the date the wages were due and payable.

ELEVENTH CAUSE OF ACTION
FAILURE TO INDEMNIFY NECESSARY BUSINESS EXPENDITURES
CALIFORNIA LABOR CODE § 2802
AGAINST ALL DEFENDANTS

148. PLAINTIFF incorporates herein each and every allegation contained in the preceding paragraphs of the complaint as if alleged fully herein.

149. California Labor Code § 2802 (a) requires DEFENDANTS to indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer

150. Here, during the relevant time period, PLAINTIFF was instructed by DEFENDANTS to utilize her car and pay for her gasoline to deliver food to various locations. DEFENDANTS have failed to reimburse PLAINTIFF for these expenses.

151. PLAINTIFF seeks to recover the statutory penalties, costs, and reasonable attorney's fees provided by California Labor Code §§ 2802(c) and (d).

TWELFTH CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS IN
VIOLATION OF CALIFORNIA LABOR CODE §226
AGAINST ALL DEFENDANTS

152. PLAINTIFF incorporates herein each and every allegation contained in the preceding paragraphs of the complaint as if alleged fully herein.

153. *California Labor Code §226(a)* requires DEFENDANTS, semimonthly or at the time of each payment of wages, to furnish PLAINTIFF an accurate itemized statement in writing showing “(1) gross wages earned, (2) total hours worked by the employee, ... (4) all deductions, ... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, ... and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee....”

154. Here, during the relevant time period, during PLAINTIFF’s employment with DEFENDANTS, PLAINTIFF was not provided accurate itemized wage statements. PLAINTIFF worked for more hours than was indicated on her wage statements.

155. DEFENDANTS have knowingly and intentionally failed to comply with *California Labor Code §226(a)* on each and every wage statement that should have been provided to PLAINTIFF.

156. By failing to keep adequate records, as required by *California Labor Code §226*, DEFENDANTS have injured PLAINTIFF and made it confusing and difficult to calculate the unpaid wage earned and expenditures not indemnified by DEFENDANTS (including wages, interest, and penalties thereon) due to PLAINTIFF.

157. PLAINTIFF seeks to recover the statutory penalties, costs, and reasonable attorney’s fees provided by *California Labor Code §§ 226(e), 226.3* for the wage statement violations committed by DEFENDANTS.

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THIRTEENTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES IN VIOLATION OF
BUSINESS AND PROFESSIONS CODE, SECTION 17200, ET SEQ.
AGAINST POLLO LOCO

158. PLAINTIFF re-alleges and incorporates by reference the other paragraphs of this Complaint as if fully set forth herein.

159. PLAINTIFF brings this cause of action on her own behalf.

160. Within four years of the filing of this complaint, corporate DEFENDANT, POLLO LOCO, has followed and continues to follow the unlawful and unfair business practices of holding out to employees that its supervisory and legal personnel will enforce POLLO LOCO's duties pursuant to state law, including, but not limited to, Government Code, section 12920, *et seq.*, California Constitution and Article 1, Section 8. However, such personnel are acting on behalf of management in furthering the harassing, discriminatory, and retaliatory practices of the corporate DEFENDANTS in violation of these laws.

161. DEFENDANT has discriminated against PLAINTIFF based on her sex, age, disability, medical condition, real or perceived, or use of medical leave, PLAINTIFF's complaining of harassment and discrimination due to these protected classes, PLAINTIFF's engagement in protected activity, and/or some combination of these factors. DEFENDANT has violated the California Labor Code as set forth herein in this complaint.

162. DEFENDANT has profited from the unfair business policies set forth above.

163. The foregoing unfair business practices offend the policies of the State of California.

FOURTEENTH CAUSE OF ACTION
FOR DECLARATORY JUDGMENT
AGAINST ALL DEFENDANTS

164. PLAINTIFF re-alleges and incorporates by reference all paragraphs in this complaint, as though set forth in full herein.

165. Government Code §12920 sets forth the public policy of the State of California as follows:

It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all

1 persons to seek, obtain, and hold employment without
2 discrimination or abridgment on account of race, religious creed,
3 color, national origin, ancestry, physical disability, mental
4 disability, medical condition, genetic information, marital status,
5 sex, gender, gender identity, gender expression, age, or sexual
6 orientation.

7 It is recognized that the practice of denying employment opportunity
8 and discriminating in the terms of employment for these reasons
9 foment domestic strife and unrest, deprives the state of the fullest
10 utilization of its capacities for development and advancement, and
11 substantially and adversely affects the interests of employees,
12 employers, and the public in general.

13 Further, the practice of discrimination because of race, color,
14 religion, sex, gender, gender identity, gender expression, sexual
15 orientation, marital status, national origin, ancestry, familial status,
16 source of income, disability, or genetic information in housing
17 accommodations is declared to be against public policy.

18 It is the purpose of this part to provide effective remedies that will
19 eliminate these discriminatory practices.

20 This part shall be deemed an exercise of the police power of the state
21 for the protection of the welfare, health, and peace of the people of
22 this state.

23 166. Government Code §12920.5 embodies the intent of the California legislature and states:

24 In order to eliminate discrimination, it is necessary to provide
25 effective remedies that will both prevent and deter unlawful
26 employment practices and redress the adverse effects of those
27 practices on aggrieved persons. To that end, this part shall be
28 deemed an exercise of the Legislature's authority pursuant to Section
1 of Article XIV of the California Constitution.

167. Moreover, Government Code §12921, subdivision (a) says in pertinent part:

The opportunity to seek, obtain, and hold employment without
discrimination because of race, religious creed, color, national
origin, ancestry, physical disability, mental disability, medical
condition, genetic information, marital status, sex, gender, gender
identity, gender expression, age, or sexual orientation is hereby
recognized as and declared to be a civil right.

168. An actual controversy has arisen and now exists between PLAINTIFF and
DEFENDANTS concerning their respective rights and duties as it is believed that DEFENDANTS may
allege that they did not discriminate and retaliate against PLAINTIFF; that PLAINTIFF was not

1 terminated as a result of PLAINTIFF's sex, age, disability and/or perceived disability, medical condition
2 or perceived medical condition, engagement in protected activities, and/or some combination of these
3 protected characteristics. PLAINTIFF contends that DEFENDANTS did discriminate and retaliate
4 against PLAINTIFF on the basis of PLAINTIFF's sex, age, disability and/or perceived disability, medical
5 condition or perceived medical condition, engagement in protected activities, and/or some combination
6 of these protected characteristics; and that PLAINTIFF was retaliated against and, ultimately wrongfully
7 terminated as a result of PLAINTIFF's sex, medical condition, disability and/or perceived disability,
8 medical condition or perceived medical condition, engagement in protected activities, and/or some
9 combination of these protected characteristics. PLAINTIFF is informed and believes, and on that basis
10 alleges, that DEFENDANTS shall dispute PLAINTIFF's contentions.

11
12 169. Pursuant to *Code of Civil Procedure §1060*, PLAINTIFF desires a judicial determination
13 of PLAINTIFF's rights and duties, and a declaration that DEFENDANTS harassed PLAINTIFF on the
14 basis of PLAINTIFF's sex, perceived disability, disability, medical condition, perceived medical
15 condition, engagement in protected activities, and/or some combination of these protected
16 characteristics.

17 170. Pursuant to *Code of Civil Procedure §1060*, PLAINTIFF seeks a judicial determination
18 of PLAINTIFF's rights and duties, and a declaration that PLAINTIFF's perceived sex, age, disability,
19 medical condition, perceived medical condition, disability, engagement in protected activities, and/or
20 some combination of these protected characteristics was a substantial motivating factor in the decision
21 to subject PLAINTIFF to the aforementioned adverse employment actions.

22 171. A judicial declaration is necessary and appropriate at this time under the circumstances in
23 order that PLAINTIFF, for PLAINTIFF and on behalf of employees in the State of California and in
24 conformity with the public policy of the State, obtain a judicial declaration of the wrongdoing of
25 DEFENDANTS and to condemn such discriminatory employment policies or practices prospectively.
26 *Harris v. City of Santa Monica (2013) 56 Cal.4th 203.*

1 172. A judicial declaration is necessary and appropriate at this time such that DEFENDANTS
2 may also be aware of their obligations under the law to not engage in discriminatory practices and to not
3 violate the law in the future.

4 173. Government Code §12965(b) provides that an aggrieved party, such as the PLAINTIFF
5 herein, may be awarded reasonable attorney's fees and costs: "In civil actions brought under this section,
6 the court, in its discretion, may award to the prevailing party, including the department, reasonable
7 attorney's fees and costs, including expert witness fees." Such fees and costs expended by an aggrieved
8 party may be awarded for the purpose of redressing, preventing, or deterring discrimination and
9 harassment.

10
11 **FIFTEENTH CAUSE OF ACTION**
12 **PRIVATE ATTORNEYS GENERAL ACT OF 2004**
13 **(PAGA LABOR CODE § 2698 ET SEQ.)**
14 **AGAINST ALL DEFENDANTS**

15 174. PLAINTIFF incorporates herein each and every allegation contained in the preceding
16 paragraphs of the complaint as if alleged fully herein.

17 175. At all times herein mentioned, the PAGA Labor Code § 2698, et seq., was applicable to
18 the PLAINTIFF's employment by DEFENDANTS.

19 176. At all times herein mentioned, PAGA provides that for any provision of law under the
20 Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce
21 Development Agency for violation of the Labor Code, the penalty may, as an alternative, be recovered
22 through a civil action brought by an aggrieved employee pursuant to procedures outlined in Labor Code
23 § 2699.3.

24 177. Pursuant to Labor Code § 2699.3, an aggrieved employee may commence a civil action
25 arising under Labor Code § 2699 after the following requirements have been met:

26 178. The aggrieved employee shall give written notice (hereinafter "Notice") by certified mail
27 to the Labor and Workforce development Agency (hereinafter "Agency") and the employer of the
28

1 specific provisions of the California Labor Code alleged to have been violated including the facts and
2 theories to support the alleged violation.

3 179. The agency shall notify the employer and the aggrieved employee or representative by
4 certified mail that it does not intend to investigate the alleged violation within up to 65 calendar days of
5 the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no
6 notice is provided within 65 calendar days of the postmark date of the notice given pursuant to paragraph
7 (1), the aggrieved employee may commence a civil action pursuant to § 2699.

8 180. Here, PLAINTIFF has complied with the procedures for bringing suit specified in Labor
9 Code § 2699.3. On or about February 15, 2021, PLAINTIFF, Belem Villa, pursuant to Labor Code §
10 2699, et seq., through her attorney, sent a letter via Certified Mail Return Receipt Requested to all named
11 DEFENDANTS and Does 1-10 which was also submitted electronically to the Labor and Workforce
12 Development Agency (“LWDA”), a copy of which has been attached as Exhibit “B” and is incorporated
13 herein by reference.
14

15 181. More than 65 days have passed from the initial letter and no response was received by
16 PLAINTIFF’s counsel from the LWDA. DEFENDANTS have not notified PLAINTIFF of an intention
17 or attempt to cure.

18 182. Pursuant to Labor Code §§ 2699 (a) and (f), PLAINTIFF is entitled to recover civil
19 penalties in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for
20 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
21 subsequent violation, plus costs and attorney’s fees, for violations of Labor Code §§ 201, 202, 203, 204,
22 226, 226.2, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5,
23 1199, and 2699, et seq. PLAINTIFF is further entitled to seek penalties for violations of Labor Code §§
24 203, 210, 226.3, 1174.5, 1197.1, 1198.5, 558, 2699 (f) and other provisions covered by PAGA in amounts
25 set out in those sections.

26 183. PLAINTIFF is further entitled to reasonable attorney’s fees, costs of suit, and interest
27 pursuant to Labor Code § 2699(g)(1).
28

184. The PAGA claims are also brought against DEFENDANTS pursuant to provisions of the California Labor Code including § 558, which permits liability of persons who violate or cause to be violated the Labor Code and IWC regulations (including penalties in the amount of underpaid wages).

185. The PAGA states:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees...

67. One provision of the law enforceable through PAGA is California Labor Code § 558, which states the following:

Any 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:

For any initial violation, fifty dollars (\$50) for each under paid employee for each pay period for which the employee was underpaid in addition to any amount sufficient to recover underpaid wages.

For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages . . .

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against DEFENDANTS and each of them, in an amount according to proof as follows:

1. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,

- 1 together with interest on these amounts; for other special damages; and for general damages
2 for mental pain and anguish and emotional distress and loss of earning capacity;
- 3 2. For a money judgment representing compensatory damages including lost wages, earnings,
4 commissions, retirement benefits, and other employee benefits, and all other sums of money,
5 together with interest on these amounts; for other special damages; and for general damages
6 for mental pain and anguish and emotional distress and loss of earning capacity;
- 7 3. For prejudgment interest on each of the foregoing at the legal rate from the date the obligation
8 became due through the date of judgment in this matter;
- 9 4. For a declaratory judgment against DEFENDANTS that the practices complained of were
10 unlawful and violative of the FEHA;
- 11 5. For the Court to enjoin DEFENDANTS from engaging in future discrimination, harassment,
12 retaliation, and failure to accommodate disabled employees;
- 13 6. For the Court to order DEFENDANTS to take reasonable steps to prevent retaliation,
14 harassment, and discrimination;
- 15 7. For restitution and disgorgement against DEFENDANTS, including pursuant to the Bus. &
16 Prof. Code § 17200, et seq.;
- 17 8. For all statutory and civil penalties and liquidated damages recoverable by law, including
18 those pursuant to PAGA;
- 19 9. For unpaid wages and premium wages (Labor Code §§ 226.7, 512);
- 20 10. For the Fifteenth Cause of Action (PAGA Violation) to be maintained as a representative
21 action;
- 22 11. For a declaratory judgment reaffirming PLAINTIFF's equal standing under the law and
23 condemning DEFENDANTS' discriminatory practices;
- 24 12. For injunctive relief barring DEFENDANTS' discriminatory employment policies and
25 practices in the future, and restoring PLAINTIFF to PLAINTIFF's former job duties with
26 DEFENDANTS;
27
28

1 13. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
2 DEFENDANTS for the wrongful conduct alleged herein and to deter such conduct in the
3 future;

4 14. For statutory attorneys' fees, and expert witness fees pursuant to the FEHA, the provisions
5 of the Labor Code, and/or any other basis;

6 15. For post-judgment interest; and

7 16. For any other relief that is just and proper.
8

9 Dated: April 30, 2021

LAW OFFICES OF SCOTT WARMUTH, APC

10
11 By: 

JEAN HOPKINS POWER, ESQ.

12 *Attorneys for Plaintiff*
13 BELEM VILLA
14

15 **DEMAND FOR JURY TRIAL**

16 Plaintiff demands trial of all issues by jury.
17

18 Dated: April 30, 2021

LAW OFFICES OF SCOTT WARMUTH, APC

19
20 By: 

JEAN HOPKINS POWER, ESQ.

21 *Attorneys for Plaintiff*
22 BELEM VILLA
23
24
25
26
27
28

Exhibit “A”

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

February 8, 2021

Jean Power
17700 Castleton Street, Suite 168
City of Industry, CA 91748

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202102-12557508
Right to Sue: Villa / Nor-Cal Chicken, Inc. dba El Pollo Loco et al.

Dear Jean Power:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758

(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711

<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

February 8, 2021

RE: Notice of Filing of Discrimination Complaint

DFEH Matter Number: 202102-12557508

Right to Sue: Villa / Nor-Cal Chicken, Inc. dba El Pollo Loco et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit.. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be made within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing

Exhibit “B”

ATTORNEYS
SCOTT WARMUTH
SETH MITCHELL
YESENIA ACOSTA
ERIC ELLISON
JASON GINSBERG
ERICA WILLIS*
BRENDAN LUCE
WILLIAM CHADDOCK
ALEXIS ORLANDO*
ANDREW MCCABE*
JEAN POWER**

* Certified Specialist, Workers'
Compensation Law
** Admitted in CA and TX

OF COUNSEL
WILLIAM L. NIU
Admitted in CA and NV
RYAN SKIVER
Admitted in CA, AZ, OH and NY

LAW OFFICES OF
SCOTT WARMUTH
A PROFESSIONAL CORPORATION
17700 CASTLETON STREET
SUITE 168
CITY OF INDUSTRY, CALIFORNIA 91748
TEL: (626) 282-6868 | FAX: (626) 642-0808
TOLL FREE: (888) 517-9888
www.law888.com

ADDITIONAL OFFICES

SAN GABRIEL
ARCADIA
FRESNO
SAN JOSE
SAN DIEGO
OAKLAND
RIVERSIDE
SACRAMENTO
BAKERSFIELD
LAS VEGAS, NV
AUSTIN, TX
DALLAS, TX
HOUSTON, TX
SCOTTSDALE, AZ

HEARING REPRESENTATIVES
MAURICE LIN, J.D.
VANESSA DEMERY

February 15, 2021

SENT VIA CERTIFIED MAIL

Nor-Cal Chicken, Inc. dba El Pollo Loco
c/o Rafael Armenta Jr.
Agent for Service of Process
406 Motor City Court, Building D
Modesto, CA 95361

**SENT VIA ELECTRONIC
SUBMISSION**

PAGAFilings@dir.ca.gov
David M. Lanier
Acting Secretary
California Labor & Workforce Development
Agency
800 Capital Mall, MIC – 55
Sacramento, CA 95814

Re: **Nor-Cal Chicken, Inc. dba El Pollo Loco**

Dear Representative:

We have been retained to represent Ms. Belen Villa (“Villa”) against NOR-CAL CHICKEN dba EL POLLO LOCO #3287 (including any and all affiliates, managers, members, subsidiaries, and parents and their shareholders, officers, directors, and employees), and any individual, owner, officer and managing agent, DOES 1-10 as an “Employer” or person acting on behalf of an “Employer” pursuant to California Labor Code § 558.1 for violations of California wage-and-hour laws (hereinafter collectively referred to as “POLLO LOCO”).

Villa is pursuing her California Labor Code § 2698, *et seq.*, the Private Attorneys General Act of 2004 (“PAGA”) claim on a representative basis. Therefore, Villa seeks penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code §2699.3.

POLLO LOCO is a California corporation located at 408 Motor City Ct. Bldg D, Modesto, CA 95356.

POLLO LOCO employed Villa as an hourly-paid non-exempt dishwasher and kitchen helper within one year of the date of this letter in the State of California. Villa remains employed for POLLO LOCO as of the date of this letter. POLLO LOCO directly controlled and controls the wages, hours, and working conditions of Villa's employment.

The "aggrieved employees" that Villa may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies or labor contractors) of POLLO LOCO within the State of California.

POLLO LOCO failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks. POLLO LOCO failed to issue compliant wage statements, thus resulting in other Labor Code violations as set forth below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Villa has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at POLLO LOCO, regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

POLLO LOCO has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code §§ 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the IWC Wage Orders.

California Labor Code §§510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Villa and other aggrieved employees routinely worked in excess of 8 hours in one day and 40 hours in one week. Here, POLLO LOCO failed to compensate Villa and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, and during meal breaks. Therefore, Villa and other aggrieved employees were and remain entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code §§226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. Here, during the relevant time period, POLLO LOCO routinely required Villa and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with POLLO LOCO's policies and expectations, and meet production goals. Moreover, POLLO LOCO failed to authorize and permit Villa and other aggrieved employees to take the requisite number of meal and rest breaks. Despite these facts, POLLO LOCO failed to compensate Villa and other aggrieved employees of the premium wages they were owed.

California Labor Code §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 § 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. Here, during the relevant time period, POLLO LOCO failed to pay Villa and other aggrieved employees of all wages due to them, including for uncompensated off-the-clock work, and premium wages or failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code § 204.

California Labor Code §226 requires employers to make, keep and provide complete and accurate itemized wage statements of their employees. During the relevant time period, POLLO LOCO did not provide Villa and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from POLLO LOCO were in violation of California Labor Code §226(a). Here, the violations include, but are not limited to, the failure to include (1) gross wages earned by Villa and other aggrieved employees, (2) total hours worked by Villa and other aggrieved employees, (3) all deductions from Villa and other aggrieved employees, (4) net wages earned by Villa and other aggrieved employees, (6) the inclusive dates of the period for which Villa and other aggrieved employees are paid, and (7) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Villa and other aggrieved employees.

California Labor Code §558 allows recovery of penalties. (a) Any employer or other person acting on behalf or 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 in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected

employee. Here, Villa and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code §§1174(d) requires an employer to keep 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, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. Here, during the relevant time period, POLLO LOCO failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid to Villa and other aggrieved employees.

California Labor Code §§1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. Here, during the relevant time period, POLLO LOCO did not provide Villa and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post- shift, and during meal breaks.

Villa and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties and wages as allowed under California Labor Code §2698, et seq. for violations of Labor Code §§ 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and the IWC Orders.

California Labor Code §2699.3 requires that a claimant send a certified letter to the employer in question and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor Code §2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether the California Labor & Workforce Development Agency intends to take any action in reference to these claims. We respectfully request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Villa will seek these penalties on her own behalf and on behalf of other similarly situated California-based hourly -paid or non-exempt employees of POLLO LOCO within one year of the date of this letter, as allowed by law.

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If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to the matter and I look forward to your reply. I remain,
Very truly yours,

**THE LAW OFFICES OF SCOTT WARMUTH
A Professional Law Corporation**



Jean H. Power

Attorney at Law

JP: tx

cc: **CERTIFIED MAIL**
Nor-Cal Chicken, Inc. dba El Pollo Loco
c/o Bertha A. Acosta
8501 River Oaks Drive
Oakdale, California 95361