

**FIRST AMENDED
SUMMONS
(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

UNITED SEAGULL FOODS, INC. dba GALLERIA FOODS WHOLESALE, ROWLAND HEIGHTS, a California Corporation; SAI CHANG, INC. dba GALLERIA FOODS WHOLESALE, LA, a California Corporation; HONG CHANG CORPORATION dba GALLERIA FOODS WHOLESALE, LA, a California Corporation; CHUN YING JIN, an individual; HAI HUA LI, an individual; and DOES 1 through 25, inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

ERIK ALVARADO individually, and on behalf of all others similarly situated and aggrieved employees;

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

SEP 03 2021

Sham R. Carter, Executive Officer/Clerk of Court

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT FOR THE STATE OF CALIFORNIA- COUNTY OF LOS ANGELES
Spring Street Courthouse: 312 North Spring Street Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

21 STC VI 2385

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Paul Denis, 38 Corporate Park, Irvine, California 92606 (714-242-4557)

DATE:

(Fecha)

SEP 03 2021

Sherril R. Carter, Clerk

Clerk, by
(Secretario)

STEVEN CREW

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

Page 1 of 1

DENIS & RASI, PC

Paul J. Denis: SBN 279026, Ethan E. Rasi: SBN 289848
38 Corporate Park
Irvine, CA 92606
Tel: (714) 242-4557; Fax: (213) 443-9601

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

SEP 03 2021

Attorneys for Plaintiff and putative Class
Representative ERIK ALVARADO individually
and on behalf of all those similarly situated and
aggrieved employees

Sherril R. Carter, Executive Officer/Clerk of Court

BY FAX

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE
[CLASS-PAGA ACTION]**

ERIK ALVARADO individually, and on
behalf of all others similarly situated and
aggrieved employees;

Plaintiff,

vs.

UNITED SEAGULL FOODS, INC. dba
GALLERIA FOODS WHOLESALE,
ROWLAND HEIGHTS, a California
Corporation; SAI CHANG, INC. dba
GALLERIA FOODS WHOLESALE, LA,
a California Corporation; HONG CHANG
CORPORATION dba GALLERIA
FOODS WHOLESALE, LA, a California
Corporation; CHUN YING JIN, an
individual; HAI HUA LI, an individual;
and DOES 1 through 25, inclusive,

Defendants

CASE NO.: 21STCV12385

ASSIGNED FOR ALL PURPOSES TO JUDGE
HON. Elihu M. Berle, DEPT. SSC6

**FIRST AMENDED CLASS-PAGA ACTION
COMPLAINT FOR:**

- 1. FAILURE TO PAY ALL EARNED WAGES**
- 2. FAILURE TO PAY ALL EARNED OVERTIME WAGES**
- 3. FAILURE TO PERMIT PAID 10 MINUTE REST PERIODS**
- 4. FAILURE TO PROVIDE 30 MINUTE MEAL PERIODS**
- 5. FAILURE TO TIMELY PAY ALL EARNED WAGES AND COMPENSATION**
- 6. FAILURE TO PAY ALL EARNED WAGES AND COMPENSATION UPON TERMINATION**
- 7. FAILURE TO PROVIDE LAWFUL WAGE STATEMENTS**
- 8. VIOLATION OF CALIFORNIA WAGE THEFT PREVENTION ACT**
- 9. UNFAIR BUSINESS PRACTICES**
- 10. VIOLATION OF LABOR CODE §206.5**
- 11. PRIVATE ATTORNEYS GENERAL ACT**

[DEMAND FOR JURY TRIAL]

1 Plaintiff and putative Class Representative and Private Attorneys General Act Representative,
2 ERIK ALVARADO (“ALVARADO”), individually and on behalf of all other similarly situated and
3 aggrieved employees allege:

4 **PARTIES AND JURISDICTION**

5 1. Plaintiff ERIK ALVARADO is an adult person who, at all times pertinent hereto,
6 was domiciled in the State of California. She brings this action individually and on behalf of all
7 current and former, similarly situated non-exempt, employees who work or worked for Defendant
8 UNITED SEAGULL FOODS, INC. dba GALLERIA FOODS WHOLESALE, ROWLAND
9 HEIGHTS (“UNITED SEAGULL”); SAI CHANG, INC. dba GALLERIA FOODS
10 WHOLESALE, LA (“SAI CHANG”); HONG CHANG CORPORATION dba GALLERIA
11 FOODS WHOLESALE, LA (“HONG CHANG”); CHUN YING JIN (“YING JIN”); HAI HUA
12 LI (“HUA LI”), an individual; and Does 1 through 25, inclusive (hereinafter collectively
13 “Defendants”), as non-exempt grocery workers in the State of California, at any time during the
14 period of four years prior to the filing of the complaint in this action up to the present.

15 2. Plaintiff ERIK ALVARADO was an employee of Defendants for over two years
16 through approximately October 25, 2019. Plaintiff worked as a grocery worker for approximately
17 two years before he was terminated while under physician ordered restrictions resulting from an injury
18 that occurred at Defendants’ Rowland Heights, California location. As a result of his injuries at work,
19 Plaintiff was disabled and able to work but with restrictions.

20 3. The similarly situated and aggrieved employees on whose behalf Plaintiff brings this
21 action include, without limitation: current and former, similarly situated non-exempt, employees
22 who work or worked for Defendants as grocery workers in the State of California, at any time
23 during the period of four years prior to the filing of the complaint in this action up to the present
24 (the “Class”).

25 4. The “Class” is comprised of the following Sub-Classes:

26 (a) Unpaid Minimum-Regular Rate Wages and Compensation Sub-Class:
27 Those members of the Class who Defendants failed to pay all of their earned minimum and regular
28 rate wages and compensation;

1 (b) Overtime Subclass: Those members of the Class who Defendants failed to
2 pay all their earned overtime wages;

3 (c) Rest Period Sub-Class: Those members of the Class who worked in excess
4 of 4 hours a day but Defendants did not permit to take a valid paid 10 consecutive minute rest
5 period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked in
6 excess of 6 hours a day but Defendants did not permit to take a second a valid, paid 10 consecutive
7 minute rest period, uninterrupted, relieved of all job duties;

8 (d) Meal Period Sub-Class: Those members of the Class who worked in excess
9 of 5 hours a day but Defendants failed to provide a valid 30 consecutive minute meal period,
10 uninterrupted, relieved of all job duties; and/or those members of the Class who worked in excess
11 of 10 hours a day but Defendants failed to provide a second valid 30 consecutive minute meal
12 period, uninterrupted, relieved of all job duties;

13 (e) Untimely Payment of Wages-Compensation Sub-Class: Those members of
14 the Class who were not timely paid all earned wages and compensation;

15 (f) Waiting Time Sub-Class: Those members of the Class who were not paid
16 all earned wages and compensation immediately upon their termination or were not paid all earned
17 wages and compensation within 72 hours of quitting;

18 (g) Wage-Statement Sub-Class: Those members of the Class who Defendants
19 failed to provide a valid Labor Code § 226 compliant wage statement;

20 (h) Labor Code §2810.5 Notice Sub-Class: Those members of the Class who
21 did not receive a written notice from Defendants in accordance with the statutory requirements of
22 California Labor Code § 2810.5;

23 (i) Unfair Business Practice Sub-Class: Those members of the Class.

24 (j) Labor Code §206.5 Sub-Class: Those members of the Class whom
25 Defendants required to execute a statement of the hours he or she worked during the pay period
26 which Defendants knew to be false.

27 ///

1 5. Plaintiff is informed, believes, and thereon alleges that Defendant, UNITED
2 SEAGULL is a California corporation doing business in the County of Los Angeles in the State
3 of California.

4 6. Plaintiff is informed, believes, and thereon alleges that Defendant, SAI CHANG is
5 a California corporation doing business in the County of Los Angeles in the State of California.

6 7. Plaintiff is informed, believes, and thereon alleges that Defendant, HONG CHANG
7 is a California corporation doing business in the County of Los Angeles in the State of California.

8 8. Plaintiff is informed, believes, and thereon alleges that Defendant, YING JIN, an
9 employee and/or officer of Defendants, is a managing agent who exercises substantial independent
10 authority and judgment in Defendants' corporate decision-making so that his decisions ultimately
11 determine corporate policy. YING JIN is and was individual residing in California and was a
12 managing agent for Defendants during Plaintiff's employment with Defendants.

13 9. Plaintiff is informed, believes, and thereon alleges that Defendant, HUA LI, an
14 employee and/or officer of Defendants, is a managing agent who exercises substantial independent
15 authority and judgment in Defendants' corporate decision-making so that his decisions ultimately
16 determine corporate policy. HUA LI is and was individual residing in California and was a
17 managing agent for Defendants during Plaintiff's employment with Defendants.

18 10. Plaintiff is ignorant of the true names and capacities of Defendant Does 1 through
19 25, inclusive, and, by reason thereof, sue said Defendants by their fictitious names. Plaintiff will
20 amend this complaint to allege the true names and capacity of said Doe Defendants when same
21 have been fully and finally ascertained.

22 11. Pursuant to the terms of the applicable Wage Order, at no time relevant hereto was
23 Plaintiff, or any fellow member of the Class or aggrieved employees, properly classified as an
24 exempt managerial, administrative, or professional employee. Plaintiff is informed, believes, and
25 thereon alleges that neither he nor any fellow member of the Class or aggrieved employees spent
26 more than one-half of time working on managerial, administrative, or professional tasks during the
27 Class Period.

1 12. On behalf of the Class, the general public, and aggrieved employees, Plaintiff seeks
2 to enforce the public policy favoring compliance with labor and workplace safety and working
3 condition standards expressed under, inter alia, Labor Code § 90.5, to wit: “It is the policy of this
4 state to vigorously enforce minimum labor standards in order to ensure employees are not required
5 or permitted to work under substandard unlawful conditions, and to protect employers who comply
6 with the law from those who attempt to gain competitive advantage at the expense of their workers
7 by failing to comply with minimum labor standards.” Plaintiff alleges that the aforementioned
8 conduct of Defendants violates an important right affecting the public interest, as such phrase is
9 used in Code of Civil Procedure section 1021.5.

10 13. Plaintiff is informed, believes, and thereon alleges that UNITED SEAGULL, and
11 Does 1 through 25 specifically authorized, directed or participated in the violations of California
12 Business and Professions Code, California Labor Code and applicable Industrial Welfare
13 Commission Wage Order, against Plaintiff and the Class, as set forth herein, and an ordinarily
14 prudent person, knowing what the directors knew at that time, would not have acted similarly
15 under the circumstances.

16 **VENUE AND JURISDICTION**

17 14. Plaintiff is informed, believes, and thereon alleges that two-thirds (2/3) or more of
18 the members of the proposed Class in the aggregate, at all times pertinent hereto, including, but
19 not limited to, the period from four years prior to commencement of this action to the present,
20 have been, and continue to be, citizens of the forum state, California, the state in which this
21 action was originally filed.

22 15. Plaintiff is informed, believes, and thereon alleges that UNITED SEAGULL, SAI
23 CHANG, HONG CHANG, YING JIN, DOES 1 through 25, and others, are primary defendants
24 in this action and, at all times pertinent hereto, were and are citizens of the forum state of
25 California.

26 16. Plaintiff is informed, believes, and thereon alleges that UNITED SEAGULL, SAI
27 CHANG, HONG CHANG, YING JIN, DOES 1 through 25, and other’s conduct, as alleged
28

1 herein, forms a significant basis for the claims asserted by Plaintiff and his fellow members of
2 the Class and aggrieved employees in this action.

3 17. Plaintiff is informed, believes, and thereon alleges that Plaintiff and his fellow
4 members of the Class and aggrieved employees are seeking significant relief from UNITED
5 SEAGULL, SAI CHANG, HONG CHANG, YING JIN, DOES 1 through 25, and others.

6 18. Plaintiff is informed, believes, and thereon alleges that the principal injuries
7 sustained by Plaintiff and his fellow members of the Class and aggrieved employees, as alleges
8 herein, resulted from the conduct of Defendants, UNITED SEAGULL, SAI CHANG, HONG
9 CHANG, YING JIN, Does 1 through 25, and others, were incurred in the forum state -
10 California.

11 19. Plaintiff is informed, believes, and thereon alleges that the claims asserted in this
12 action do not involve matters of national or interstate interest; rather, this Class action involves a
13 local controversy of the forum state - California.

14 20. Plaintiff is informed, believes, and thereon alleges that the claims asserted is this
15 action will be governed exclusively by the laws of the forum state - California – the state in
16 which this action is originally filed.

17 21. Plaintiff is informed, believes, and thereon alleges that this action is brought in
18 the Los Angeles County Superior Court for the State of California as said forum has a distinct
19 nexus with Plaintiff and his fellow members of the Class and aggrieved employees, the harm
20 alleged, as well as Defendants, UNITED SEAGULL, SAI CHANG, HONG CHANG, YING
21 JIN, HUA LI, and Does 1 through 25.

22 22. Plaintiff is informed, believes, and thereon alleges that, at all times mentioned
23 herein, the number of citizens from the forum state of California, the state in which the action
24 was originally filed, comprising the proposed Class in the aggregate is substantially larger than
25 the number of citizens from any other state, and the citizenship of the other members of the class
26 is dispersed among a substantial number of states.

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23. Plaintiff is informed, believes, and thereon alleges that, at all times mentioned herein, that the claims alleged in this action, and the causes of action derived therefrom, do not involve a federal question(s).

24. At times pertinent hereto, Plaintiff and his fellow members of the Class and aggrieved employees, as employees of Defendants, performed work, and Defendants' liability arose, in the County of Los Angeles, State of California.

25. Venue is appropriate in Los Angeles County in that venue in a failure to pay wages claim against an employer is proper in the location where the work was performed. (*Owens v. Paraco, Inc.* (1958) 160 Cal.App.2d 824). Defendants' liability arose in Los Angeles County, and other counties throughout California, where they committed violations of applicable provisions of the California Business and Professions Code, California Labor Code, and applicable Industrial Welfare Commission Wage Orders, as detailed herein.

JOINT EMPLOYER

26. Plaintiff is informed, believes, and thereon alleges that, at all times mentioned herein, the named Defendants, Does 1 through 25, and each of them, were acting as the agent and/or employee of each remaining defendant, and were acting within the course and scope of said principal-agency and/or employment relationship, and directed, authorized and/or ratified the conduct set forth in detail herein. Plaintiff is further informed, believes, and thereon allege that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleges and that Plaintiff and his fellow members of the Class and aggrieved employees' damages, as herein alleges, were proximately caused by such Defendants, and each of them.

27. Plaintiff is informed, believes, and thereon alleges that Defendants and Does 1 through 25, inclusive, were, at all times pertinent hereto, joint employers of the named Plaintiff, and other members of the Class, as they exercised joint control over and/or right to assign, place and/or supervise the Class members' work or working conditions, maintained joint authority to hire and fire employees, supervised and controlled employee work schedules and employment conditions, determined rate and method of payment, and/or jointly maintained employment records.

28. Plaintiff is informed, believes, and thereon alleges that at all times relative hereto, Plaintiff and his fellow Class members performed work that simultaneously benefitted Defendants and Does 1 through 25, inclusive.

29. Plaintiff is informed, believes, and thereon alleges that at all times pertinent hereto, there existed an arrangement between Defendants and Does 1 through 25, inclusive, to share the employee's services, and each Defendant acted, either directly or indirectly, in the interest of their fellow Defendants in relation to the employment of Plaintiff and his fellow Class members.

ALTER EGO – AGENCY

30. Plaintiff is informed, believes, and thereon alleges that there exists, and at all times herein mentioned there existed, a unity of interest and ownership between Defendants and Does 1 through 25, inclusive, on the one hand, and on the other hand, such that any corporate individuality and separateness between said parties have ceased and that Defendants are the alter ego of Does 1 through 25, inclusive, in that the businesses of Does 1 through 25, inclusive, are so completely dominated, controlled, managed, and operated by Defendants that Does 1 through 25, inclusive, function as a mere instrumentalities through which Defendants conduct their business.

31. Plaintiff is informed, believes and thereon allege that adherence to the fiction of the existence of Does 1 through 25, as entities separate and distinct from Defendants would permit an abuse of the corporate privilege and would sanction fraud and promote injustice in that Plaintiff could be denied a full recovery in the event that the assets of Does 1 through 25 are insufficient to satisfy a judgment entered against them in this action. The corporate veil established Does 1 through 25, should be pierced and the alter ego doctrine applied in the context of this action.

32. Plaintiff is informed, believes, and thereon alleges that Defendant Does 15 through 25 are individuals, directors, officers and shareholders of Defendants and Does 1 through 25, who influence and govern Defendants and Does 1 through 25, and/or were actors in the course of conduct constituting the abuse of the corporate privilege, treating Defendants and

Does 1 through 25, as their alter ego, rather than as a separate entity, failing, inter alia, to contribute capital, issue stock, or otherwise complete formation of the corporation, use corporate assets as their own, commingle corporate funds with their personal funds, and/or failing to observe corporate formalities. Further, Defendants, and Does 15 through 25, utilized Defendants Does 1 through 25, to circumvent the applicable provisions, and frustrate the statutory policies, of the California Business and Professions Code, California Labor Code and applicable Industrial Welfare Commission Wage Orders, as set forth herein.

33. Plaintiff is informed, believes, and thereon alleges that it would sanction a fraud or promote an injustice to uphold the corporate entities of Defendants and Does 1 through 25, and allow the shareholders of Defendants and Does 15 through 25, to escape personal liability for his/her/their debts to Plaintiff and his fellow members of the Class and aggrieved employees.

34. Plaintiff is informed, believes, and thereon alleges that Defendants and Does 1 through 25, specifically authorized, directed or participated in the violations of California Business and Professions Code, California Labor Code and applicable Industrial Welfare Commission Wage Orders, against Plaintiff and his fellow members of the Class and aggrieved employees, as set forth herein, and an ordinarily prudent person, knowing what the directors knew at that time, would not have acted similarly under the circumstances.

APPLICABLE WAGE AND HOUR STANDARDS

35. At all times pertinent hereto, pursuant to California law, including, but not limited to, Labor Code § 1197-1198, it was unlawful to pay less than the wage established by law or to employ persons in excess of the hours fixed by the Industrial Welfare Commission ("IWC") or under conditions prohibited by the Industrial Wage Commission Wage Orders codified at 8 Cal. Code Reg., Division 1 (the "IWC Wage Orders").

36. At all times pertinent hereto, California law, including, but not limited to, Labor Code § 510 and the IWC Wage Orders which apply to Plaintiff and his fellow members of the Class and aggrieved employees' employment with Defendants, provided for payment of a minimum wage regardless of the number of hours worked; plus one and one-half (1 ½) times each employee's regular rate of pay for all work over eight (8) hours in any workday, forty (40)

1 hours in any workweek, or any work performed on the seventh day of any workweek; plus
2 double the employee's regular rate of pay for work over 12 hours in a work day or over eight
3 hours on the seventh day of any workweek.

4 37. At all times pertinent hereto, California law, including, but not limited to, Labor
5 Code § 510 and the IWC Wage Orders which apply to Plaintiff and his fellow members of the
6 Class and aggrieved employees' employment with Defendants, provided for payment of a
7 minimum wage regardless of the number of hours worked. At all times relevant hereto,
8 California law, including, but not limited to, Labor Code § 510, and IWC Wage Order No. 4, 5,
9 and/or 10, which apply to Plaintiffs' employment with Defendants, provided for payment of a
10 minimum wage regardless of the number of hours worked; plus one and one-half (1 ½) times
11 each employee's regular rate of pay for all work over eight (8) hours in any workday, forty (40)
12 hours in any workweek, or the first 8 hours of the seventh consecutive day of work; as well as
13 double their regular rate of pay for work in excess of twelve hours per day or in excess of eight
14 hours on the seventh consecutive day of any work week.

15 38. At all times pertinent hereto, California law, including, but not limited to, Labor
16 Code § 1194.3, which applies to Plaintiff and his fellow members of the Class and aggrieved
17 employees' employment with Defendants, provided, "An employee may recover attorney's fees
18 and costs incurred to enforce a court judgment for unpaid wages due pursuant to this code."

19 39. At all times pertinent hereto, 8 Cal. Code Reg. ("CCR") section 11070 (Industrial
20 Welfare Commission, Industry and Occupation Orders, Wage Order (the "Wage Order")), which
21 applies to Plaintiff and his fellow members of the Class and aggrieved employees' employment
22 with Defendants, required that each non-exempt employee working at least 3.5 hours must be
23 given a paid rest period of not less than ten consecutive minutes, uninterrupted, where the
24 employee is relieved of all duties; and a second rest period of not less than ten consecutive
25 minutes be given to each non-exempt employee working at least six hours in any given workday.

26 40. At all times pertinent hereto, the Wage Order and Labor Code § 226.7, provided
27 that each non-exempt employee who was not permitted to take a valid rest period mandated
28

1 thereunder must be paid one hour of additional pay at the employee's regular rate of pay for each
2 such workday in which a valid rest period was not provided.

3 41. At all times pertinent hereto, the Wage Order required that each employee
4 working at least five hours must be given a paid or unpaid meal period of not less than thirty
5 consecutive minutes, uninterrupted, where the employee is relieved of all job duties; and that a
6 second meal period of not less than thirty consecutive minutes, uninterrupted, be given to each
7 employee working at least ten hours in any given workday. Further, unless the employee is
8 relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered
9 an "on duty" meal period and counted as time worked. An "on duty" meal period shall be
10 permitted only when the nature of the work prevents an employee from being relieved of all duty
11 and when by written agreement between the parties an on-the-job paid meal period is agreed to.
12 The written agreement shall state that the employee may, in writing, revoke the agreement at any
13 time.

14 42. At all times pertinent hereto, the Wage Order and Labor Code § 226.7, provided
15 that each employee who was not permitted to take a meal period mandated thereunder must be
16 paid one hour of additional pay at the employee's regular rate of pay for each such workday in
17 which a valid meal period was not provided.

18 43. At all times pertinent hereto, Labor Code § 200 defined "wages" as including all
19 amounts for labor performed by employees of every description, whether the amount is fixed or
20 ascertained by the standard of time, task, piece, commission basis, or other method of
21 calculation.

22 44. At all times pertinent hereto, Labor Code § 204 provided that all wages, other
23 than those mentioned in Labor Code §§ 201, 202, 204.1, or 204.2, earned by any person in any
24 employment, are due and payable twice during each calendar month, on days designated in
25 advance by the employer as the regular paydays. Labor performed between the 1st and 15th
26 days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
27 month during which the labor was performed, and labor performed between the 16th and the last
28

1 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
2 following month.

3 45. At all times pertinent hereto, Labor Code § 201 provided that if an employer
4 discharges an employee, the wages earned and unpaid at the time of discharge are due and
5 payable immediately.

6 46. At all times pertinent hereto, Labor Code § 202 provided that if an employee not
7 having a written contract for a definite period quits their employment, their wages shall become
8 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
9 previous notice of their intention to quit, in which case the employee is entitled to their wages at
10 the time of quitting.

11 47. At all times pertinent hereto, Labor Code § 203 provided that an employer who
12 willfully fails to pay, without abatement or reduction, in accordance with Labor Code §§ 201 and
13 202, any wages of an employee who is discharged or who quits, the wages of the employee shall
14 continue as a penalty from the due date thereof at the same rate until paid or until an action
15 therefore is commenced; but the wages shall not continue for more than thirty (30) days.

16 48. At all times pertinent hereto, California law, including, but not limited to, Labor
17 Code § 226, required Defendants, “at the time of each payment of wages, furnish each of their
18 employees, either as a detachable part of the check, draft, or voucher paying the employee’s
19 wages, or separately when wages are paid by personal check or cash, an itemized statement in
20 writing showing: (1) gross wages earned, (2) total hours worked by the employee, . . . (4) all
21 deductions, provided, that all deductions made on written orders of the employee may be
22 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
23 which the employee is paid, (7) the name of the employee and their social security number, (8)
24 the name and address of the legal entity that is the employer, and (9) all applicable hourly rates
25 in effect during the pay period and the corresponding number of hours worked at each hourly
26 rate by the employee.”

27 49. At all times pertinent hereto, California law, including, Labor Code § 2810.5,
28 provided in pertinent part: “(a) (1) At the time of hiring, an employer shall provide to each

1 employee a written notice, in the language the employer normally uses to communicate
2 employment-related information to the employee, containing the following information: (A) The
3 rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece,
4 commission, or otherwise, including any rates for overtime, as applicable. (B) Allowances, if
5 any, claimed as part of the minimum wage, including meal or lodging allowances. (C) The
6 regular payday designated by the employer in accordance with the requirements of this code. (D)
7 The name of the employer, including any “doing business as” names used by the employer. (E)
8 The physical address of the employer’s main office or principal place of business, and a mailing
9 address, if different. (F) The telephone number of the employer. (G) The name, address, and
10 telephone number of the employer’s workers’ compensation insurance carrier. (H) That an
11 employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave;
12 may not be terminated or retaliated against for using or requesting the use of accrued paid sick
13 leave; and has the right to file a complaint against an employer who retaliates. (I) Any other
14 information the Labor Commissioner deems material and necessary....(b) An employer shall
15 notify their or their employees in writing of any changes to the information set forth in the notice
16 within seven calendar days after the time of the changes, unless one of the following applies: (1)
17 All changes are reflected on a timely wage statement furnished in accordance with Section 226.
18 (2) Notice of all changes is provided in another writing required by law within seven days of the
19 changes....”

20 50. Plaintiff, individually and on behalf of all others similarly situated, seeks recovery
21 of wages, restitution, as well as penalties for each day to which they and fellow members of the
22 Class and aggrieved employees, were subject to the unlawful conduct of Defendants, to wit:
23 denied wages; underpaid for actual hours of work; not compensated at the proper rate for hours
24 worked; not permitted valid ten (10) consecutive minute, uninterrupted rest periods, relieved of
25 all job duties; were not provided valid thirty (30) consecutive minute, uninterrupted meal
26 periods, relieved of all job duties; not timely paid all earned wages and compensation; were
27 provided inaccurate and incomplete wage statements; not paid all wages earned at the time of the
28 termination of their employment relationship with Defendants; were not provided a valid written

1 notice compliant with Labor Code 2810.5; and were misclassified as exempt from those
2 provisions of the California Labor Code and applicable Wage Order governing wages and other
3 compensation. Plaintiff, individually and on behalf of all other similarly situated members of
4 the Class, also seek remedies for unfair competition and unlawful, unfair, or fraudulent business
5 practices, which deprived Plaintiff and his fellow members of the Class and aggrieved employees
6 of their proper wages and compensation, in a calculated effort to illegally reduce payroll costs
7 and increase Defendants' profits.

8 51. Plaintiff, individually and on behalf of all others similarly situated, is informed,
9 believe and thereon alleges that at all times pertinent hereto, Labor Code § 558 provided in
10 pertinent part, "(a) Any employer or other person acting on behalf of an employer who violates,
11 or causes to be violated, a section of this chapter or any provision regulating hours and days of
12 work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any initial
13 violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the
14 employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For
15 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
16 period for which the employee was underpaid in addition to an amount sufficient to recover
17 underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected
18 employee.... (c) The civil penalties provided for in this section are in addition to any other civil
19 or criminal penalty provided by law." Plaintiff individually and on behalf of all others similarly
20 situated, is informed, believe and thereon alleges that at all times pertinent hereto, Defendants'
21 officer, CHUN YING JIN, as an employer or other person acting on behalf of an employer,
22 violated, or caused to be violated, a section of this chapter or any provision regulating hours and
23 days of work in any order of the IWC, as alleged herein in this complaint.

24 52. At all times relevant hereto, California law, including, but not limited to, Labor
25 Code §351, provided in pertinent part: No employer or agent shall collect, take, or receive any
26 gratuity or a part thereof that is paid, given to, or left for an employee by a patron, or deduct any
27 amount from wages due an employee on account of a gratuity, or require an employee to credit
28 the amount, or any part thereof, of a gratuity against and as a part of the wages due the employee

1 from the employer. Every gratuity is hereby declared to be the sole property of the employee or
2 employees to whom it was paid, given, or left for. An employer that permits patrons to pay
3 gratuities by credit card shall pay the employees the full amount of the gratuity that the patron
4 indicated on the credit card slip, without any deductions for any credit card payment processing
5 fees or costs that may be charged to the employer by the credit card company. Payment of
6 gratuities made by patrons using credit cards shall be made to the employees not later than the
7 next regular payday following the date the patron authorized the credit card payment.

8 53. In response to the COVID-19 pandemic, and pursuant to Judicial Council of
9 California's adoption of California Rules of Court Emergency Rule 9, the statute of limitations
10 for the claims alleged in the instant complaint were tolled from April 6, 2020 to October 1, 2020.

11 **CLASS ALLEGATIONS**

12 54. The similarly situated and aggrieved employees on whose behalf Plaintiff brings
13 this action include, without limitation: current and former, similarly situated non-exempt,
14 employees who work or worked for Defendants as dancers and entertainers in the State of
15 California, at any time during the period of four years prior to the filing of the complaint in this
16 action up to the present (the "Class")

17 55. The "Class" is comprised of the following Sub-Classes:

18 (a) **Unpaid Minimum-Regular Rate Wages and Compensation Sub-Class:**

19 Those members of the Class who Defendants failed to pay all of their earned minimum and
20 regular rate wages and compensation;

21 (b) **Overtime Sub-Class:** Those members of the Class who Defendants failed

22 to pay all their earned overtime wages;

23 (c) **Rest Period Sub-Class:** Those members of the Class who worked in excess

24 of 4 hours a day but Defendants did not permit to take a valid paid 10 consecutive minute rest
25 period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked
26 in excess of 6 hours a day but Defendants did not permit to take a second a valid, paid 10
27 consecutive minute rest period, uninterrupted, relieved of all job duties;

1 (d) Meal Period Sub-Class: Those members of the Class who worked in
2 excess of 5 hours a day but Defendants failed to provide a valid 30 consecutive minute meal
3 period, uninterrupted, relieved of all job duties; and/or those members of the Class who worked
4 in excess of 10 hours a day but Defendants failed to provide a second valid 30 consecutive
5 minute meal period, uninterrupted, relieved of all job duties;

6 (e) Untimely Payment of Wages-Compensation Sub-Class: Those members of
7 the Class who were not timely paid all earned wages and compensation;

8 (f) Waiting Time Sub-Class: Those members of the Class who were not paid
9 all earned wages and compensation immediately upon their termination or were not paid all
10 earned wages and compensation within 72 hours of quitting;

11 (g) Wage-Statement Sub-Class: Those members of the Class who Defendants
12 failed to provide a valid Labor Code § 226 compliant wage statement;

13 (h) Labor Code §2810.5 Notice Sub-Class: Those members of the Class who
14 did not receive a written notice from Defendants in accordance with the statutory requirements of
15 California Labor Code § 2810.5;

16 (i) Labor Code §206.5 Sub-Class: Those members of the Class whom
17 Defendants required to execute a statement of the hours he or she worked during the pay period
18 which Defendants knew to be false.

19 56. Plaintiff reserves the right pursuant to California Rules of Court Rule 3.765, to
20 amend or modify the respective definitions of the Class and/or Sub-Classes to provide greater
21 specificity and/or further division into subclasses or limitation to particular issues.

22 57. Plaintiff and Class Representative, ERIK ALVARADO is a member of the non-
23 exempt employees comprising the Class, employed with Defendants in their dancing and
24 entertaining activities, in the State of California, at some time during the proposed Class Period
25 of four years prior to the filing of this action.

26 58. Plaintiff is informed, believes and allege that Defendants have consistently
27 maintained and enforced against Plaintiff and his fellow members of the Class and aggrieved
28 employees the following unlawful practices and policies: (a) willfully refusing to pay Plaintiff

1 and his fellow members of the Class and aggrieved employees all of their earned wages and
2 compensation, including minimum, regular and overtime wages, by requiring, inter alia, Plaintiff
3 and his fellow members of the Class and aggrieved employees to work and not compensating for
4 all hours worked;; (b) not permitting Plaintiff and his fellow members of the Class and aggrieved
5 employees to take all of their statutorily entitled rest periods; (c) not providing Plaintiff and his
6 fellow members of the Class and aggrieved employees the opportunity to take all of their
7 statutorily entitled meal periods; (d) failing to pay Plaintiff and his fellow members of the Class
8 and aggrieved employees one hour of compensation at their regular rate of pay, for each earned
9 rest period not permitted and/or each earned meal period not provided; (e) not timely paying
10 Plaintiff and his fellow members of the Class and aggrieved employees all of their earned wages
11 and compensation; (f) failing to furnish to Plaintiff and his fellow members of the Class and
12 aggrieved employees accurate Labor Code § 226 compliant wage statements; (g) not timely
13 paying Plaintiff and his fellow members of the Class and aggrieved employees all of their earned
14 wages, compensation immediately at the termination of their employment or within seventy-two
15 hours of them quitting; and/or (h) not providing Plaintiff and his fellow members of the Class
16 and aggrieved employees a written notice in accordance with Labor Code § 2810.5

17 59. Plaintiff is informed, believes, and thereon alleges that the number of members of
18 the Class is in excess of one hundred (100). Consequently, the Class is so numerous that joinder
19 of all members individually would be impractical.

20 60. Plaintiff is informed, believes, and thereon alleges that all members of the Class
21 are similarly situated in that, throughout their employment, they were subject to Defendants'
22 violations of California labor law, including the following: Defendants maintained uniform
23 policies and practices whereby Defendants regularly and systematically: (a) refused to pay
24 Plaintiff and his fellow members of the Class and aggrieved employees all of their earned wages
25 and compensation, including overtime wages, by requiring, inter alia, Plaintiff and his fellow
26 members of the Class and aggrieved employees to work in excess of the statutory hours
27 permitted per day, thereby also failing to compensate the Class of the appropriate overtime
28 compensation; (b) did not permit Plaintiff and his fellow members of the Class and aggrieved

1 employees to take all of their statutorily entitled rest periods; (c) did not provide Plaintiff and his
2 fellow members of the Class and aggrieved employees the opportunity to take all of their
3 statutorily entitled meal periods; (d) failed to pay Plaintiff and his fellow members of the Class
4 and aggrieved employees one hour of compensation at their regular rate of pay, for each earned
5 rest period not permitted and/or each earned meal period not provided; (e) failed to timely pay
6 Plaintiff and his fellow members of the Class and aggrieved employees all of their earned wages
7 and compensation; (f) failed to furnish to Plaintiff and his fellow members of the Class and
8 aggrieved employees accurate Labor Code § 226.7 compliant wage statements; (g) failed to
9 timely pay Plaintiff and his fellow members of the Class and aggrieved employees all of their
10 earned wages, compensation and benefits immediately at the termination of their employment or
11 within seventy-two hours of them quitting; and (h) failed to provide Plaintiff and his fellow
12 members of the Class and aggrieved employees a written notice in accordance with Labor Code
13 § 2810.5.

14 61. Plaintiff is informed, believes, and thereon alleges that Defendants' unlawful
15 employment policies and practices, raise numerous questions of law common to the members of
16 the Class, including, without limitation: (i) whether the provisions of the Labor Code and 8 CCR
17 § 11050 include the employer's obligation to pay all earned wages and to pay all such earned
18 wages at the time of the termination of a member of the Class's employment; (ii) Defendants
19 legal obligation to permit members of the Class to take paid rest periods of ten (10) consecutive,
20 uninterrupted minutes for shifts in excess of four hours and a second rest period for shifts in
21 excess of six hours; (iii) Defendants legal obligation to provide members of the Class the
22 opportunity to take meal periods of thirty (30) consecutive, uninterrupted minutes for shifts in
23 excess of five hours and a second meal period for shifts in excess of ten hours; (iv) whether
24 Defendants obligation to provide Labor Code § 226 compliant wage statements to the members
25 of the Class are applicable to non-exempt employees such as the Plaintiff and his fellow
26 members of the Class and aggrieved employees; (v) Defendants' obligation to provide Plaintiff
27 and his fellow members of the Class and aggrieved employees written notice in accordance with
28 Labor Code § 2810.5; (vi) what remedies, including restitution, compensatory damages, statutory

1 and civil penalties, additional wages and disgorgement of revenue, are available under California
2 law to members of the Class who: were not paid all earned wages, compensation and benefits;
3 were not timely paid all earned minimum, regular and overtime wages, compensation and
4 benefits; were not paid all wages earned at the time of the termination of their employment
5 relationship with Defendants; were not provided lawful wage statements; were not permitted to
6 take earned ten (10) minute rest periods; and/or were not provided earned thirty (30) minute meal
7 periods; were not provided written notice in accordance with Labor Code § 2810.5; (vii) the
8 Class members' entitlement to take a paid ten consecutive minute, uninterrupted, rest period for
9 shifts worked in excess of 3.5 (3.5) hours and a second rest period of not less than ten
10 consecutive minutes, uninterrupted, for shifts worked of at least six (6) hours in a given
11 workday; (viii) the Class members' entitlement to take a thirty consecutive minute,
12 uninterrupted, meal period for shifts worked in excess of five (5) hours and a second meal period
13 of not less than thirty consecutive minutes, uninterrupted, for shifts worked of at least ten (10)
14 hours in a given workday; (ix) the Class members' entitlement to one hour of pay at the
15 members' regular rate of pay for each paid ten (10) consecutive minute, uninterrupted, rest
16 period that Defendants did not permit the Class members to take; (x) the Class members'
17 entitlement to one hour of pay at the members' regular rate of pay for each thirty (30)
18 consecutive minute, uninterrupted, meal period that Defendants did not provide the Class
19 members to take; and (xi) the requirements for a wage statement to be compliant with Labor
20 Code § 226; (xii) the requirements for a written notice to be compliant with Labor Code §
21 2810.5.

22 62. Plaintiff is informed, believes, and thereon alleges that the claims of Plaintiff are
23 typical of the claims of the Class because: they encompass the same unlawful policies and
24 practices of Defendants; they arise out of the same alleges course of conduct by Defendants; are
25 based upon the same legal theories as the claims of the Class; and the legal issues raised under
26 the California state laws as a result of Defendants' conduct apply equally to Plaintiff and his
27 fellow members of the Class and aggrieved employees.
28

1 63. Plaintiff has no conflicts of interest with their fellow members of the Class and
2 aggrieved employees and will be able to fairly and adequately protect the interests of all
3 members of the Class.

4 64. Plaintiff is informed, believes, and thereon alleges that Paul Denis and Ethan Rasi
5 of Denis & Rasi, PC, individually and collectively, are able to adequately represent the Class, as
6 class counsel, with respect to the claims advanced in this action.

7 65. The prosecution of separate actions by or against individual members of the Class
8 would create a risk of substantial prejudice because separate actions could result in the
9 imposition of incompatible standards of conduct on the party opposing class certification through
10 inconsistent judgments or varying adjudications. Further, adjudication with respect to individual
11 members of the Class could, as a practical matter, be dispositive of the interests of the other
12 members who are not parties to the adjudication and/or could substantially impair or impede
13 their ability to protect their interests.

14 66. Plaintiff is informed, believes, and thereon alleges that Defendants have acted and
15 refused to act on grounds generally applicable to all or substantially all of the members of the
16 Class.

17 67. The questions of law and fact common to the members of the Class predominate
18 over any questions affecting only individual members, and a class action is superior to other
19 available methods for the fair and efficient adjudication of the controversy in that members of
20 the Class have little or no interest in individually controlling the prosecution of separate actions;
21 Plaintiff is aware of no other litigation concerning the controversy already commenced by
22 members of the Class; it is desirable to concentrate the litigation of the claims in this court
23 because substantially all of Plaintiff's employment activities for which his claims arise took
24 place within the venue of the above-entitled court and Defendants otherwise conduct business in
25 this jurisdiction; and the action is manageable as a class action because, compared with any other
26 method, such as consolidation of individual actions, a class action is fairer and more efficient,
27 and avoids the potential for inconsistent findings of fact and/or application of law. Furthermore,
28

1 a class action would maximize judicial efficiency and minimize the inconvenience to both party
2 and non-party witnesses who would otherwise have to testify in a multitude of proceedings.

3 **FIRST CAUSE OF ACTION**

4 **(FAILURE TO PAY ALL EARNED WAGES)**

5 **(Against All Defendants)**

6 68. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
7 alleged in this complaint, as though fully set forth herein.

8 69. Pursuant to Labor Code §§ 1197-1198, and the Wage Order, Plaintiff and
9 members of the Class were not exempt managerial, administrative, or professional employees.

10 70. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
11 failed to pay Plaintiff and other similarly situated members of the Class for all the time worked
12 as a result of Defendants' labor policies and practices, including, but not limited to: (a) failure to
13 compensate members overtime premium for all hours worked in excess of eight hours per day.

14 71. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
15 failed and refused and continue to fail and refuse to pay compensation for all hours worked by
16 Plaintiff and the Class at their regular rate of pay.

17 72. As a result of Defendants' conduct, Plaintiff and other fellow members of the
18 Class and aggrieved employees are entitled to a recovery of damages for all unpaid wages at the
19 proper rates of pay as restitution from Defendants.

20 73. At all times pertinent hereto, California Labor Code § 1194 provided:
21 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
22 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
23 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
24 compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

25 74. At all times pertinent hereto, California Labor Code § 1194.2 provides for the
26 recovery of prejudgment interest in any action brought to recover the nonpayment of wages, at
27 the rate specified in Civil Code § 3289.

75. Plaintiff is informed, believes, and thereon alleges that Defendants, by and through their respective corporate officers, directors, and managing agents, ordered, authorized, approved, and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his fellow members of the Class and aggrieved employees of monies to which they were and are entitled under California law, so as to increase Defendants' profits, notwithstanding clear statutory obligations, including those which carry criminal penalties for noncompliance.

SECOND CAUSE OF ACTION

(FAILURE TO PAY ALL EARNED OVERTIME WAGES)

(Against All Defendants)

76. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations alleged in this complaint as though fully set forth herein.

77. Pursuant to Labor Code §§ 1197-1198, and the Wage Order, Plaintiff and his fellow members of the Class and aggrieved employees were not exempt managerial, administrative, or professional employees.

78. Plaintiff is informed, believes, and thereon alleges that for each day and week within the applicable limitations period, during the course of their employment with Defendants, Plaintiff and his fellow members of the Class and aggrieved employees performed work without being paid the required overtime wage under California law, including, but not limited to, the Wage Order and Labor Code § 1182.12.

79. Plaintiff is informed, believes, and thereon alleges that for each day and week within the applicable limitations period, during the course of his employment with Defendants, Plaintiff and his fellow members of the Class and aggrieved employees performed work in excess of eight hours per day, forty hours per week, and/or the first eight hours of work on a seventh consecutive day as well as double their regular rate of pay for work in excess of twelve hours per day or in excess of eight hours on the seventh consecutive day of work, without being paid the required overtime wages under California law, including, but not limited to, the Wage Order and Labor Code §§ 510, 512.

1 80. Plaintiff is informed, believes, and thereon alleges that for each day and week
2 within the applicable limitations period, during the course of his employment with Defendants,
3 Plaintiff and his fellow members of the Class and aggrieved employees performed work in
4 excess of 16 hours per day, forty hours per week, and/or forty-eight hours per week, without
5 being paid the required overtime and/or double time wages under California law, including, but
6 not limited to, the Wage Order and Labor Code §§ 510, 512.

7 81. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
8 failed, refused and continue to fail and refuse to pay Plaintiff and his fellow members of the
9 Class and aggrieved employees one and one-half times their regular rate of pay for hours worked
10 in excess of 8 hours in a given day, 40 hours in a given seven day period, in addition to the first 8
11 hours of the seventh consecutive day of work; as well as double their regular rate of pay for work
12 in excess of twelve hours per day, or in excess of eight hours on the seventh consecutive day of
13 work.

14 82. Plaintiff is informed, believes, and thereon alleges that Defendants unlawfully
15 failed, refused and continue to fail and refuse to pay Plaintiff and his fellow members of the
16 Class and aggrieved employees one and one-half times their regular rate of pay for hours worked
17 in excess of 40 hours in a given seven day period; as well as double their regular rate of pay for
18 work in excess of sixteen (16) hours per day, or in excess of 48 eight hours in a given seven day
19 period .

20 83. As a result of Defendants' conduct, Plaintiff and his fellow members of the Class
21 and aggrieved employees are entitled to a recovery of damages for all unpaid overtime wages at
22 the proper rates of pay as restitution from Defendants.

23 84. At all times pertinent hereto, California Labor Code § 1194 provided:
24 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the
25 legal minimum wage or the legal overtime compensation applicable to the employee is entitled to
26 recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime
27 compensation, including interest thereon, reasonable attorney's fees, and costs of suit."
28

85. At all times pertinent hereto, California Labor Code § 1194.2 provided for the recovery of prejudgment interest in any action brought to recover the nonpayment of minimum wages and overtime wages at the rate specified in Civil Code § 3289.

86. At all times pertinent hereto, Labor Code § 1194.3 provided for the recovery of attorney's fees and costs in any action brought to recover the nonpayment of minimum or overtime wages.

87. Plaintiff is informed, believes, and thereon alleges that Defendants, and each of them, by and through their respective corporate officers, directors, and managing agents, ordered, authorized, approved, or ratified the conduct herein alleges with the intent to deprive Plaintiff and his fellow members of the Class and aggrieved employees of the minimum and overtime wages to which they were entitled under California law so as to increase Defendants' profits, notwithstanding their statutory obligations, including those which carry criminal penalties for noncompliance.

THIRD CAUSE OF ACTION

(FAILURE TO PERMIT PAID 10 MINUTE REST PERIODS)

(Against All Defendants)

88. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations alleged in this complaint as though fully set forth herein.

89. Pursuant to the terms of the applicable Wage Order, at no time relevant hereto was Plaintiff or any fellow member of the Class properly classified as an exempt managerial, administrative, or professional employee. Plaintiff is informed, believes, and thereon allege that neither they nor any fellow member of the Class spent more than one-half of their time working on managerial, administrative, or professional tasks during the relevant time periods.

90. Plaintiff is informed, believes, and thereon alleges that Defendants have consistently and continuously promulgated and enforced policies and practices, each day and week of each pay period within the applicable limitations period, under which Plaintiff and his fellow members of the Class and aggrieved employees regularly worked shifts in excess of four hours without being permitted the opportunity to take a paid rest period of at least ten (10)

1 consecutive minutes, uninterrupted, relieved of all job duties, and worked more than six (6)
2 hours at a time without being allowed a second paid ten (10) consecutive minute, uninterrupted,
3 rest period, relieved of all job duties.

4 91. Plaintiff is informed, believes, and thereon alleges that no member of the Class
5 has ever been paid their earned compensation for work performed by members of the Class
6 during the rest period to which they were entitled, yet not provided the opportunity to take, as
7 well as additional monies required under Labor Code § 226.7. Instead, Defendants have
8 unlawfully failed and refused and continue to fail and refuse to pay monies to Plaintiff and his
9 fellow members of the Class and aggrieved employees for labor performed during the rest
10 periods which Defendants refused to permit Plaintiff and his fellow members of the Class and
11 aggrieved employees opportunity to take.

12 92. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
13 through their respective corporate officers, directors, and managing agents, ordered, authorized,
14 approved, and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his
15 fellow members of the Class and aggrieved employees of the monies to which they were and are
16 entitled under California law, so as to increase Defendants' profits, notwithstanding clear
17 statutory obligations, including obligations which carry criminal penalties for noncompliance.

18 **FOURTH CAUSE OF ACTION**

19 **(FAILURE TO PROVIDE 30 MINUTE MEAL PERIODS)**

20 **(Against All Defendants)**

21 93. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
22 alleged in this complaint as though fully set forth herein.

23 94. Pursuant to the terms of the applicable Wage Order, at no time relevant hereto
24 were the Plaintiff or any fellow member of the Class properly classified as an exempt
25 managerial, administrative, or professional employee. Plaintiff is informed, believes, and
26 thereon alleges that neither Plaintiff nor fellow members of the Class and aggrieved employees
27 spent more than one-half of their time working on managerial, administrative, or professional
28 tasks during the Class Period.

1 95. Plaintiff is informed, believes, and thereon alleges that during each day and week
2 of each pay period within the applicable limitations period, Defendants have consistently and
3 continuously promulgated and enforced policies and practices under which the Plaintiff and his
4 fellow members of the Class and aggrieved employees regularly worked more than five (5) hours
5 at a time without being permitted the opportunity to take a meal period of at least thirty (30)
6 consecutive minutes, uninterrupted, relieved of all job duties, and worked more than ten (10)
7 hours at a time without being allowed a second thirty (30) consecutive minute, uninterrupted,
8 meal period, relieved of all job duties.

9 96. The nature of the work performed by Plaintiff and his fellow members of the
10 Class and aggrieved employees did not prevent them from being relieved of all job duties.

11 97. Plaintiff is informed, believes, and thereon alleges that neither Plaintiff nor his
12 fellow members of the Class and aggrieved employees have ever been paid their earned
13 compensation for work they performed during the meal period to which they were entitled, yet
14 not provided the opportunity to take, as well as additional monies required under Labor Code §
15 226.7. Instead, Defendants unlawfully failed, refused and continue to fail and refuse to pay
16 monies to Plaintiff and the Class for labor performed during the meal periods which Defendants
17 refused to provide Plaintiff and his fellow members of the Class and aggrieved employees the
18 opportunity to take.

19 98. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
20 through their respective corporate officers, directors, and managing agents, ordered, authorized,
21 approved, and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his
22 fellow members of the Class and aggrieved employees of monies to which they were and are
23 entitled under California law, so as to increase Defendants' profits, notwithstanding clear
24 statutory obligations, including obligations which carry criminal penalties for noncompliance.

25 ///

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28 ///

FIFTH CAUSE OF ACTION
(FAILURE TO TIMELY PAY ALL EARNED WAGES AND COMPENSATION)
(Against All Defendants)

99. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth in this Complaint as though fully set forth herein.

100. At all times pertinent hereto, California law, including, but not limited to, Labor Code § 204 provided that all wages, other than those mentioned in Labor Code § 201, 202, 204.1, or 204.2, earned by any person in any employment, are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

101. Plaintiff is informed, believes and thereon allege that Defendants failed to timely tender Plaintiff and his fellow members of the Class and aggrieved employees all of their earned minimum and regular wages, overtime wages, and Labor Code § 226.7 compensation, earned by Plaintiff and his fellow members of the Class and aggrieved employees, in accordance with California law, including, but not limited to, Labor Code § 204, such that labor performed between the 1st and 15th days, inclusive, of any calendar month was not paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, was not paid for between the 1st and 10th day of the following month.

102. Plaintiff is informed, believes and thereon allege that as a consequence of Defendants' failure to timely tender Plaintiff and his fellow members of the Class and aggrieved employees all of their earned minimum and regular wages, overtime wages, and Labor Code § 226.7 compensation, Plaintiff was deprived of the timely receipt of their earned wages and other compensation and, as a result thereof, were deprived of the interest and monetary appreciation that would accrue on said monies - financial growth which Defendants were afforded the

1 opportunity to realize as a consequence of their unlawful and unfair withholding of said wages
2 and compensation earned by, and due and owing, Plaintiff and his fellow members of the Class
3 and aggrieved employees.

4 103. At all times pertinent hereto, California law, including, but not limited to, Labor
5 Code § 215 provided, “Any person, or the agent, manager, superintendent or officer thereof, who
6 violates any provision of Section 201.3, 204, 204b, 205, 207, 208, 209, or 212 is guilty of a
7 misdemeanor. Any failure to keep posted any notice required by Section 207 is prima facie
8 evidence of a violation of these sections.”

9 104. At all times pertinent hereto, California law, including, but not limited to, Labor
10 Code § 216 provided, “In addition to any other penalty imposed by this article, any person, or an
11 agent, manager, superintendent, or officer thereof is guilty of a misdemeanor, who: (a) Having
12 the ability to pay, willfully refuses to pay wages due and payable after demand has been made.
13 (b) Falsely denies the amount or validity thereof, or that the same is due, with intent to secure for
14 himself, their employer or other person, any discount upon such indebtedness, or with intent to
15 annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due.”

16 105. Plaintiff is informed, believes, and thereon alleges that Defendants, and each of
17 them, by and through their respective corporate officers, directors, and managing agents,
18 ordered, authorized, approved, or ratified the conduct herein alleged with the intent to deprive
19 Plaintiff and fellow members of the Class and aggrieved employees of the wages to which they
20 were entitled under California law so as to increase Defendants' profits, regardless of their
21 statutory obligations, including those which carry criminal penalties for noncompliance.

22 **SIXTH CAUSE OF ACTION**

23 **(FAILURE TO PAY ALL EARNED WAGES AND**
24 **COMPENSATION UPON TERMINATION OF EMPLOYMENT)**

25 **(Against All Defendants)**

26 106. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
27 alleged in this complaint as though fully set forth herein.
28

1 107. At all times pertinent hereto, Labor Code § 201 provided that if an employer
2 discharges an employee, the wages earned and unpaid at the time of discharge are due and
3 payable immediately.

4 108. At all times pertinent hereto, Labor Code § 202 provided that if an employee not
5 having a written contract for a definite period quits their employment, their wages shall become
6 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
7 previous notice of their intention to quit, in which case the employee is entitled to their wages at
8 the time of quitting.

9 109. Plaintiff is informed, believes, and thereon alleges that for each day and week of
10 each pay period within the applicable limitations period, Plaintiff and/or members of the Class's
11 employment relationship with Defendants were terminated without Defendants paying all wages,
12 and compensation due Plaintiff and his fellow members of the Class and aggrieved employees in
13 the time period prescribed by the Labor Code.

14 110. Plaintiff is informed, believes, and thereon allege that Plaintiff and his fellow
15 members of the Class and aggrieved employees have been available and ready to receive wages
16 and compensation owed to them.

17 111. Plaintiff is informed, believes, and thereon allege that Plaintiff and his fellow
18 members of the Class and aggrieved employees have not refused to receive any payment, nor
19 have Plaintiff or his fellow members of the Class and aggrieved employees been absent from
20 their regular place of residence to receive the wages and compensation due and owing them by
21 Defendants.

22 112. Plaintiff is informed, believes, and thereon alleges that Defendants' failure to pay
23 Plaintiff and his fellow members of the Class and aggrieved employees their wages and
24 compensation due and owing, as set forth in detail herein, was willful; Defendants have
25 knowingly refused to pay Plaintiff and his fellow members of the Class and aggrieved employees
26 all of the wages and compensation due and owing Plaintiff and his fellow members of the Class
27 and aggrieved employees.
28

1 113. At all times pertinent hereto, Labor Code § 203 provided that an employer who
2 willfully fails to pay, without abatement or reduction, in accordance with Labor §§ 201, 201.5,
3 202, and 205.5, any wages of an employee who is discharged or who quits, the daily wages of
4 the employee shall continue as a penalty from the due date thereof at the same daily rate until
5 paid or until an action therefore is commenced up to, but not more than thirty (30) days.

6 114. At all times pertinent hereto, Labor Code § 216 provided that in addition to any
7 other penalty imposed by the article, any person, or an agent, manager, superintendent, or officer
8 thereof is guilty of a misdemeanor, who: (a) Having the ability to pay, willfully refuses to pay
9 wages due and payable after demand has been made; (b) Falsely denies the amount or validity
10 thereof, or that the same is due, with intent to secure for himself, their employer or other person,
11 any discount upon such indebtedness, or with intent to annoy, harass, oppress, hinder, delay, or
12 defraud, the person to whom such indebtedness is due.

13 115. At all times pertinent hereto, California law, including, but not limited to, Labor
14 Code § 1194, provided that for any action brought for the nonpayment of wages, fringe benefits,
15 or health and welfare or pension fund contributions, the court shall award reasonable attorney's
16 fees and costs to the prevailing party if any party to the action requests attorney's fees and costs
17 upon the initiation of the action.

18 116. At all times pertinent hereto, Labor Code § 1194.2 provided that in any action
19 brought for the nonpayment of wages, the court shall award interest on all due and unpaid wages
20 at the rate of interest specified in Civil Code § 3289(b), which shall accrue from the date that the
21 wages were due and payable.

22 117. Plaintiff is informed, believes, and thereon alleges that Defendants, by and
23 through their respective officers, directors, and managing agents, ordered, authorized, approved
24 and/or ratified the conduct herein alleges with intent to deprive the Plaintiff and his fellow
25 members of Class of the monies to which they were entitled under California law, so as to
26 increase Defendants' profits, regardless of their statutory obligations, including those which
27 carry criminal penalties for noncompliance.

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EIGHTH CAUSE OF ACTION

(VIOLATION OF CALIFORNIA WAGE THEFT PREVENTION ACT)

(Against All Defendants)

122. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations alleged in this complaint as though fully set forth herein.

123. At all times pertinent hereto, California's Wage Theft Prevention Act, codified in part in California Labor Code § 2810.5, provided in pertinent part: (a) (1) At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information: (A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable. (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances. (C) The regular payday designated by the employer in accordance with the requirements of this code. (D) The name of the employer, including any "doing business as" names used by the employer. (E) The physical address of the employer's main office or principal place of business, and a mailing address, if different. (F) The telephone number of the employer. (G) The name, address, and telephone number of the employer's workers' compensation insurance carrier. (H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates. (I) Any other information the Labor Commissioner deems material and necessary....(3) If the employer is a temporary services employer, as defined in Section 201.3, the notice described in paragraph (1) must also include the name, the physical address of the main office, the mailing address if different from the physical address of the main office, and the telephone number of the legal entity for whom the employee will perform work, and any other information the Labor Commissioner deems material and necessary. ... (b) An employer shall notify their or their employees in writing of any changes to the information set forth in the notice within seven calendar days after the time of the changes, unless one of the following applies:

1 (1) All changes are reflected on a timely wage statement furnished in accordance with Section
2 226. (2) Notice of all changes is provided in another writing required by law within seven days
3 of the changes.

4 124. Plaintiff is informed, believes and thereon allege that all times pertinent hereto,
5 Defendants were not security services companies licensed by the Department of Consumer
6 Affairs and that solely provided security services.

7 125. At all times pertinent hereto, neither Plaintiff nor his fellow members of the Class
8 and aggrieved employees were employees directly employed by the state or any political
9 subdivision thereof, including any city, county, city and county, or special district.

10 126. At all times pertinent hereto, neither Plaintiff nor his fellow members of the Class
11 and aggrieved employees were employees who were exempt from the payment of overtime
12 wages by statute or the wage orders of the Industrial Welfare Commission.

13 127. At all times pertinent hereto, neither Plaintiff nor his fellow members of the Class
14 and aggrieved employees were employees who were covered by a valid collective bargaining
15 agreement which expressly provided for the wages, hours of work, and working conditions of the
16 employee, or an agreement which provided premium wage rates for all overtime hours worked
17 and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage.

18 128. Plaintiff is informed, believes and thereon allege that at no time during the Class
19 Period did Defendants provide either Plaintiff or his fellow members of the Class and aggrieved
20 employees the written notice required pursuant to the California's Wage Theft Prevention Act,
21 codified in part in California Labor Code § 2810.5.

22 **NINTH CAUSE OF ACTION**
23 **(UNFAIR BUSINESS PRACTICES)**
24 **(Against All Defendants)**

25 129. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
26 alleged in this complaint as though fully set forth herein.

27 130. Plaintiff is informed, believes, and thereon alleges that for each day and week of
28 each pay period within the applicable limitations period, Defendants reaped substantial unjust

1 revenue by, inter alia: (a) willfully refusing to pay Plaintiff and his fellow members of the Class
2 and aggrieved employees all of their earned wages and compensation, including overtime wages,
3 by failing to compensate Plaintiff and his fellow members of the Class and aggrieved employees
4 all legally required overtime premium for all overtime hours worked; (b) not permitting Plaintiff
5 and his fellow members of the Class and aggrieved employees to take all of their statutorily
6 entitled rest periods; (c) not providing Plaintiff and his fellow members of the Class and
7 aggrieved employees the opportunity to take all of their statutorily entitled meal periods; (d)
8 failing to pay Plaintiff and his fellow members of the Class and aggrieved employees one hour of
9 compensation at their regular rate of pay, for each earned rest period not permitted and/or each
10 earned meal period not provided; (e) not timely paying Plaintiff and his fellow members of the
11 Class and aggrieved employees all of their earned wages and compensation; (f) failing to furnish
12 to Plaintiff and his fellow members of the Class and aggrieved employees accurate Labor Code §
13 226 compliant wage statements; (g) not timely paying Plaintiff and his fellow members of the
14 Class and aggrieved employees all of their earned wages, compensation and benefits
15 immediately at the termination of their employment or within seventy-two hours of them
16 quitting; and/or (h) not providing Plaintiff and his fellow members of the Class and aggrieved
17 employees a written notice in accordance with Labor Code § 2810.5; and (j) failing to abide by
18 other provisions of the California Labor Code and Code of Regulations, including, without
19 limitation, Labor Code §§ 90 et seq., 200 et seq., 510, 512, 1194 and other sections, as well as
20 the Wage Order.

21 131. Plaintiff is informed, believes, and thereon alleges that within four years of the
22 filing of this lawsuit, Defendants committed unfair and unlawful business acts including, but not
23 limited to, inter alia: (a) willfully refusing to pay Plaintiff and his fellow members of the Class
24 and aggrieved employees all of their earned wages and compensation, including overtime wages,
25 failing to compensate Plaintiff and his fellow members of the Class and aggrieved employees all
26 legally required overtime premium for all overtime hours worked; (b) not permitting Plaintiff
27 and his fellow members of the Class and aggrieved employees to take all of their statutorily
28 entitled rest periods; (c) not providing Plaintiff and his fellow members of the Class and

1 aggrieved employees the opportunity to take all of their statutorily entitled meal periods; (d)
2 failing to pay Plaintiff and his fellow members of the Class and aggrieved employees one hour of
3 compensation at their regular rate of pay, for each earned rest period not permitted and/or each
4 earned meal period not provided; (e) not timely paying Plaintiff and his fellow members of the
5 Class and aggrieved employees all of their earned wages and compensation; (f) failing to furnish
6 to Plaintiff and his fellow members of the Class and aggrieved employees accurate Labor Code §
7 226 compliant wage statements; (g) not timely paying Plaintiff and his fellow members of the
8 Class and aggrieved employees all of their earned wages, compensation and benefits
9 immediately at the termination of their employment or within seventy-two hours of them
10 quitting; and/or (h) not providing Plaintiff and his fellow members of the Class and aggrieved
11 employees a written notice in accordance with Labor Code § 2810.5; and (j) to abide by other
12 provisions of the California Labor Code and Code of Regulations, including, without limitation,
13 Labor Code §§ 90 et seq., 200 et seq., 510, 512, 1194 and other sections, as well as the Wage
14 Order. Such conduct by Defendants constitutes unfair competition and unfair business practices,
15 as such terms are described in Business and Professions Code § 17200, et seq.

16 132. Pursuant to Business and Professions Code § 17203, the court is authorized to
17 make such orders or judgments as may be necessary to prevent the use or employment by any
18 such person or entity of any such practice which constitutes unfair competition or as may be
19 necessary to restore to any person in interest any money or property which may have been
20 acquired by means of such unfair competition.

21 133. Plaintiff is informed, believes, and thereon alleges that Defendants have violated
22 California labor law as detailed herein and, unless restrained and ordered to disgorge to Plaintiff
23 and his fellow members of the Class and aggrieved employees, as restitution, all ill-gotten
24 revenue derived from Defendants' unfair and unlawful business practices detailed herein,
25 Defendants will continue to violate Unfair Competition Law by engaging in the business
26 practices violative of California labor law as detailed hereinabove.

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TENTH CAUSE OF ACTION
(VIOLATION OF LABOR CODE §206.5)
(Against All Defendants)

134. Plaintiffs hereby re-allege and incorporate by reference the allegations set forth in this Complaint as though fully set forth herein.

135. At all times relevant hereto, California law, including, but not limited to, Labor Code §206.5 provided in pertinent part: (a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor. (b) For purposes of this section, "execution of a release" includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

136. Plaintiff is informed and believes and thereon alleges that at all times pertinent hereto Defendants had a uniform policy and practice to violate Labor Code §206.5 by, inter alia: requiring Employees to execute a statement of the hours he or she worked during the pay period which Defendants knew to be false. Said statement did not accurately denote all hours worked by Plaintiff and fellow employees, including, but not limited to: artificially deducting, rounding down, and/or not accurately recording, time from the hours worked by Plaintiff and fellow employees despite the fact that they continued to work during said period so deducted and/or not recorded; not recording all overtime and minimum wage hours worked; not recording off the-clock hours, not properly recording reporting hours, standby hours; split-shift hours; not recording rest period that Defendants' did not permit Plaintiffs and their fellow aggrieved employees; not recording meal periods that Defendants did not provide Plaintiffs and their fellow aggrieved employees; and deducting time for meal periods that were not provided Plaintiffs and their fellow aggrieved employees.

137. As a consequence of Defendants violations of Labor Code §206.5, Plaintiffs and their fellow aggrieved employees have been damaged as the false statements that Defendants

1 mandated Plaintiffs and their fellow aggrieved employees sign as a condition for receipt of their
2 paycheck did not accurately inform Plaintiffs and their fellow aggrieved employees as to the
3 proper amount of wages and compensation to which they were entitled. Further, Defendants paid
4 Plaintiffs and their fellow aggrieved employees based on the erroneous figures referenced in
5 Defendants' false statements and as such, Defendants failed to remit to Plaintiffs and their fellow
6 aggrieved employees all of their earned wages and compensation.

7 **ELEVENTH CAUSE OF ACTION**
8 **(PRIVATE ATTORNEYS GENERAL ACT)**
9 **(Against All Defendants)**

10 138. Plaintiff hereby re-alleges and incorporates by reference all facts and allegations
11 alleged in this Complaint as though fully set forth herein.

12 139. At all times relevant hereto, California law, including, but not limited to, Labor
13 Code §§ 2698, et seq., known as the Labor Code Private Attorneys General Act of 2004
14 ("PAGA"), provided an aggrieved employee, on behalf of himself or herself and other current or
15 former employees, through a civil action, a procedure to recover those civil penalties to be
16 assessed against Defendants and collected by the Labor and Workforce Development Agency or
17 any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of
18 the Labor Code.

19 140. At all times relevant hereto, California law, including, but not limited to, Labor
20 Code § 2699, provided in pertinent part: "(a) Notwithstanding any other provision of law, any
21 provision of this code that provides for a civil penalty to be assessed and collected by the Labor
22 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
23 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through
24 a civil action brought by an aggrieved employee on behalf of himself or herself and other current
25 or former employees pursuant to the procedures specified in Section 2699.3. (b) For purposes of
26 this part, "person" has the same meaning as defined in Section 18. (c) For purposes of this part,
27 "aggrieved employee" means any person who was employed by the alleged violator and against
28 whom one or more of the alleged violations was committed."

1 141. At all times relevant hereto, California law, including, but not limited to, Labor
2 Code § 2699(e), provided in pertinent part: “(1) For purposes of this part, whenever the Labor
3 and Workforce Development Agency, or any of its departments, divisions, commissions, boards,
4 agencies, or employees, has discretion to assess a civil penalty, a court is authorized to exercise
5 the same discretion, subject to the same limitations and conditions, to assess a civil penalty....
6 (f)(2) If, at the time of the alleged violation, the person employs one or more employees, the civil
7 penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
8 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
9 subsequent violation...(g) (1) Except as provided in paragraph (2), an aggrieved employee may
10 recover the civil penalty described in subdivision (f) in a civil action pursuant to the procedures
11 specified in Section 2699.3 filed on behalf of himself or herself and other current or former
12 employees against whom one or more of the alleged violations was committed. Any employee
13 who prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.
14 Nothing in this part shall operate to limit an employee’s right to pursue or recover other remedies
15 available under state or federal law, either separately or concurrently with an action taken under
16 this part....”

17 142. Plaintiff is informed, believes and thereon alleges that at all times pertinent hereto,
18 the PAGA, codified in California Labor Code §§ 2698, et seq., applied to the Labor Code
19 violations alleged herein against Defendants.

20 143. Plaintiff is informed, believes and thereon alleges that at all times pertinent hereto
21 they each were an “aggrieved employee” of Defendants, as that phrase is statutorily defined
22 pursuant to Labor Code § 2699(c); in particular, Plaintiff and fellow members of the
23 Class/Aggrieved Employees were persons employed by the alleged violators, i.e. Defendants,
24 and against whom one or more of the alleged violations was committed.

25 144. Plaintiff has complied with all procedural requirements of the PAGA codified in
26 California Labor Code §§ 2698, et seq.

27 145. In particular, on March 31, 2021, Plaintiff, ERIK ALVARADO, as an aggrieved
28 employee of Defendants and representative of the Class, gave written Notice by electronic
submission, to the California Labor and Workforce Development Agency and, by certified mail,

1 to Defendants, of those provisions of the California Labor Code alleged to have been violated by
2 Defendants, including the facts and theories to support the alleged violations (the “Notice,” Ex.
3 A).

4 146. Plaintiff is informed, believes and thereon alleges that he is statutorily authorized
5 to commence a civil action against Defendants pursuant to the PAGA, including Labor Code §§
6 2698, 2699, 2699.3 and 2699.5, as the California Labor and Workforce Development has not
7 notified the employer and Plaintiff by certified mail that it intends to investigate the alleged
8 violation within sixty-five (65) calendar days of the electronic submittal of the Notice to the
9 California Labor and Workforce Development Agency, with said governmental agency having
10 not provided notification to Plaintiff, ERIK ALVARADO, of any intention to investigate the
11 alleged violations.

12 147. Plaintiff is informed, believes and thereon alleges that at all times pertinent hereto,
13 California Labor Code § 2699.3(a)(2)(C) provided, “Notwithstanding any other provision of law,
14 a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising
15 under this part at any time within 60 days of the time periods specified in this part.”

16 148. As a result of Defendants’ violations of the California Labor Code enumerated
17 herein above, pursuant to California Labor Code § 2699(f)(1), Plaintiff and his fellow members
18 of the Class/Aggrieved Employees are entitled to recover a civil penalty of one hundred dollars
19 (\$100) for each aggrieved employee per pay period for the initial violation and two hundred
20 dollars (\$200) for each aggrieved employee per pay period for each subsequent violation, as well
21 as an award of reasonable attorney’s fees and costs pursuant to California Labor Code §
22 2699(g)(1).

23 149. Plaintiff is informed, believes and thereon alleges that at all times pertinent hereto,
24 California Labor Code § 2699(g)(1) provided in pertinent part, “...Nothing in this part shall
25 ~~prevent an employer from asserting a right to pursue with an action the remedies available~~ under state or
26 federal law, within an employee’s right to pursue with an action the remedies available under state or
27 federal law, within an employee’s right to pursue with an action the remedies available under state or
28 federal law, within an employee’s right to pursue with an action the remedies available under state or

25 150. Plaintiff is informed, believes and thereon alleges that at all times pertinent hereto,
26 Labor Code § 558 provided in pertinent part, “(a) Any employer or other person acting on behalf
27 of an employer who violates, or causes to be violated, a section of this chapter or any provision
28 regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as

1 follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
2 pay period for which the employee was underpaid in addition to an amount sufficient to recover
3 underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
4 underpaid employee for each pay period for which the employee was underpaid in addition to an
5 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall
6 be paid to the affected employee.... (c) The civil penalties provided for in this section are in
7 addition to any other civil or criminal penalty provided by law.”

8 As a result of Defendants’ violations of the California Labor Code enumerated herein above,
9 pursuant to California Labor Code § 558, Plaintiff and his fellow members of the
10 Class/Aggrieved Employees are entitled to recover a civil penalty of fifty dollars (\$50) for each
11 aggrieved employee per pay period for the initial violation, in addition to an amount sufficient to
12 recover underpaid wages, and one hundred dollars (\$100) for each aggrieved employee per pay
13 period for each subsequent violation, in addition to an amount sufficient to recover underpaid
14 wages, as well as reasonable attorney’s fees and costs pursuant to California Labor Code §
15 2699(g)(1).

16 **PRAYER**

17 NOW, THEREFORE, Plaintiff, individually, and on behalf of his fellow members of the
18 Class and aggrieved employees, prays for judgment against Defendants, and each of them, as
19 follows:

- 20 1. Order certifying this case as a Class Action;
- 21 2. Order appointing Plaintiff as the Representative of the Class and each Sub-Class;
- 22 3. Order appointing Plaintiff, ERIK ALVARADO, as representative for the
23 aggrieved employees;
- 24 4. Order appointing counsel for Plaintiff as Class-PAGA Counsel;

25 **ON THE FIRST CAUSE OF ACTION**

- 26 5. For all earned minimum and regular rate wages as restitution and compensatory
27 damages in an amount according to proof at the time of trial;
- 28

1 6. For penalties as authorized by statute including, but not limited to, the California
2 Labor Code;

3 7. For reasonable attorney's fees and costs under Labor Code §§ 1194, 1194, and as
4 otherwise permitted by statute;

5 8. For interest at the legal rate pursuant to Labor Code § 1194.2 and Civil Code §
6 3289, from the date of each applicable pay period; and

7 **ON THE SECOND CAUSE OF ACTION**

8 9. For all earned overtime wages as restitution and compensatory damages in an
9 amount according to proof at the time of trial;

10 10. For penalties as authorized by statute including, but not limited to, the California
11 Labor Code;

12 11. For reasonable attorney's fees and costs under the Labor Code, and as otherwise
13 permitted by statute;

14 12. For interest at the legal rate pursuant to Labor Code § 1194.2 and Civil Code §
15 3289, from the date of each applicable pay period; and

16 **ON THE THIRD CAUSE OF ACTION**

17 13. For restitution and compensatory damages according to proof at the time of trial;

18 14. For additional monies equal to one hour of pay for each member of the Class for
19 each work day within the statutory period of Labor Code § 226.7, in which such members
20 worked 3.5 hours without being permitted a paid ten (10) consecutive minute, uninterrupted, rest
21 period and/or worked 6 hours and not permitted a paid second ten (10) consecutive minute,
22 uninterrupted, rest period;

23 15. For interest at the legal rate pursuant to Labor Code § 1194.2 and Civil Code §
24 3289, from the date of each applicable pay period; and

25 **ON THE FOURTH CAUSE OF ACTION**

26 16. For additional monies equal to one hour of pay for each member of the Class for
27 each work day within the statutory period of Labor Code § 226.7, in which such members
28 worked five hours without being provided a thirty (30) consecutive, uninterrupted, meal period,

1 and/or worked ten hours without being provided a second thirty (30) consecutive minute,
2 uninterrupted, meal period;

3 17. For interest at the legal rate pursuant to Labor Code § 1194.2 and Civil Code
4 section 3289, from the date of each applicable pay period; and

5 **ON THE FIFTH CAUSE OF ACTION**

6 18. For penalties as authorized by statute including, but not limited to, the California
7 Labor Code;

8 19. For interest at the legal rate pursuant to Labor Code § 1194.2 and Civil Code §
9 3289, from the date of each applicable pay period; and

10 **ON THE SIXTH CAUSE OF ACTION**

11 20. For restitution and compensatory damages according to proof at the time of trial;

12 21. For the greater of actual damages sustained or penalties as authorized by statute
13 including, but not limited to, the California Labor Code;

14 22. For reasonable attorney's fees and costs under the Labor Code, and as otherwise
15 permitted by statute;

16 23. For interest at the legal rate pursuant to Civil Code § 3289, from the date of each
17 applicable pay period; and

18 **ON THE SEVENTH CAUSE OF ACTION**

19 24. For the greater of actual damages sustained or penalties as authorized by statute,
20 including, but not limited to, the California Labor Code; and

21 25. For reasonable attorney's fees and costs under the Labor Code, and as otherwise
22 permitted by statute; and

23 **ON THE EIGHTH CAUSE OF ACTION**

24 26. For penalties as authorized by statute including, but not limited to, the California
25 Labor Code; and

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1 **ON THE NINTH CAUSE OF ACTION**

2 27. For an order compelling the Defendants to disgorge and pay over to Plaintiff and
3 the Class, as restitution, all revenue and savings resulting from their unfair business practices
4 imposed upon Plaintiff and the Class;

5 28. For reasonable attorney's fees under Code of Civil Procedure § 1021.5 and as
6 otherwise permitted by statute; and

7 **ON THE TENTH CAUSE OF ACTION**

8 29. For the greater of actual damages sustained or penalties as authorized by statute,
9 including, but not limited to, the California Labor Code; and

10 30. For reasonable attorney's fees and costs under the Labor Code, and as otherwise
11 permitted by statute; and

12 **ON THE ELEVENTH CAUSE OF ACTION**

13 31. For the greater of actual damages sustained or penalties as authorized by statute,
14 including, but not limited to, the California Labor Code, including, without limitation, Labor
15 Code §§ 226.3, 558, 1197.1, and 2699; and

16 32. For reasonable attorney's fees and costs under the Labor Code, and as otherwise
17 permitted by statute;

18 **ON ALL CAUSES OF ACTION**

19 33. For costs of suit incurred herein; and

20 34. For such other and further relief as the court deems just and proper.

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff, proposed Class Representative, ERIK ALVARADO, individually and on behalf of
23 all those similarly situated members of the Class and aggrieved employees, hereby demand trial by
24 jury in this action.

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Dated: September 3, 2021

DENIS & RASI, PC

By: 

Paul J. Denis

Ethan E. Rasi

Attorneys for Plaintiff and putative
Class Representative, ERIK ALVARADO
individually, and on behalf of all others
similarly situated

Exhibit "A"

March 31, 2021

VIA CERTIFIED U.S. MAIL

*United Seagull Foods, Inc.
Agent for Service: Chun Ying Jin
20550 E. Meghan Ct
Walnut, CA 91789*

Tracking #:
70202450000201406524

*Sai Chang, Inc.
Agent for Service: Hai Hua Li
3250 W. Olympic Blvd #118
Los Angeles, CA 90006*

Tracking #:
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*Hong Chang Corporation
Agent for Service: Hai Hua Li
10155 Painter Ave
Santa Fe Springs, CA 90670*

Tracking #:
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*Chun Ying Jin
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Tracking #:
70202450000201406487

Re: Alvarado v. United Seagull Foods, Inc., et al.

VIA ELECTRONIC TRANSMISSION

California Labor and Workforce Development Agency
<https://dir.tfaforms.net/128>

NOTICE OF LABOR LAW VIOLATIONS

Dear Labor and Workforce Development Agency:

This office has been retained by Erik Alvarado (hereinafter referred to as “Claimant”) to address violations of the California Labor Code to which she, and her similarly situated aggrieved employees (collectively the “Aggrieved Employees”) were subject as a result of the unlawful labor policies and practices of their employer UNITED SEAGULL FOODS, INC. dba GALLERIA FOODS WHOLESALE, ROWLAND HEIGHTS; SAI CHANG, INC. dba GALLERIA FOODS WHOLESALE, LA; HONG CHANG CORPORATION dba GALLERIA FOODS WHOLESALE, LA (hereinafter referred to collectively as “Galleria Foods”). This letter shall serve as Claimant’s Notice of Labor Code Violations pursuant to California Labor Code §2699 (“PAGA”).

Within the last year, the Aggrieved Employees were employed by Galleria Foods – a operator of a chain of grocery stores, as well as importers, distributors and wholesalers of foods and groceries in the State of California. The Aggrieved Employees were not exempt managerial, administrative, or professional employees. As detailed herein below, while in Galleria Foods’

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employ, the Aggrieved Employees experienced one or more violations of the California Labor Code by Galleria Foods, and potentially other entities/individuals (whose exact identities have yet to be confirmed).

Once vested with the statutory authority, this office will assert Labor Code § 2698 on behalf of the Aggrieved Employees against Galleria Foods, collectively, and individually.

SPECIFIC PROVISIONS OF LABOR CODES VIOLATED BY GALLERIA FOODS

Pursuant to this correspondence, notice is hereby given that the Aggrieved Employees intend to pursue claims against Galleria Foods for said employers' violations of the California Labor Code, including, but not limited to: 200-204, 218, 218.5, 218.6, 226, 226.3, 226.7, 226.8, 510, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., and 2810.5.

GALLERIA FOODS' VIOLATIONS OF THE CALIFORNIA LABOR CODE

At all times relevant hereto, Labor Code § 200 defined "wages" as including all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

At all times relevant hereto, Labor Code § 201 provided that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

At all times relevant hereto, Labor Code § 202 provided that if an employee not having a written contract for a definite period quits their employment, their wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours advance notice of their intention to quit, in which case the employee is entitled to their wages at the time of quitting.

At all times relevant hereto, Labor Code § 203 provided that an employer who willfully fails to pay, without abatement or reduction, in accordance with Sections 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than thirty (30) days.

Within the last year, Labor Code § 204 provided that all wages, other than those mentioned in Section 201, 202, 204.1, or 204.2, earned by any person in any employment, are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

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Defendants' requirement that Employees execute documents purporting to exonerate Defendants of their violations of the California Labor Code, violated yet another Labor Code provision - § 206.5, which provides:

California Labor Code Section 206.5

(a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.

(b) For purposes of this section, "execution of a release" includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

Within the last year, Labor Code § 218 provided, "...Nothing in this article shall limit the right of any wage claimant to sue directly or through an assignee for any wages or penalty due him under this article."

At all times relevant hereto, Labor Code § 226, required Defendants, "...at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee, . . . (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, 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." Labor Code § 226.3 provides that any employer who violates subdivision (a) of Labor Code § 226 shall be subject to a civil penalty in the amount of two hundred fifty (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

Within the last year, Labor Code § 510 provided for payment of a minimum wage regardless of the number of hours worked; plus one and one-half (1 ½) times each employee's regular rate of pay for all work over eight (8) hours in any workday, forty (40) hours in any workweek, or the first 8 hours of the seventh consecutive day of work; as well as double their

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regular rate of pay for work in excess of twelve hours per day or in excess of eight hours on the seventh consecutive day of any work week.

Within the last year, Labor Code § 558 provided, “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: (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. (3) Wages recovered pursuant to this section shall be paid to the affected employee.

At all times relevant hereto, Labor Code §§ 1174 and 1174.5 describe the record retention obligations of employers in California and the penalties associated with a failure to maintain accurate payroll records. At all times relevant hereto, Labor Code § 2751 required employers to provide employees who earn any portion of their payment all times relevant hereto, Labor Code § 2802 required employers to reimburse an employer shall 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.

Within the last year, Labor Code § 1182.12 required that, “Notwithstanding any other provision of this part...on and after January 1, 2008, the minimum wage for all industries shall be not less than eight dollars (\$8.00) per hour.”

Within the last year, Labor Code § 1194 provided, “(a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or 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 minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit. (b) The amendments made to this section by Chapter 825 of the Statutes of 1991 shall apply only to civil actions commenced on or after January 1, 1992.”

Within the last year, pursuant to Labor Code §§ 1197 and 1198, it was unlawful to pay less than the wage established by law or to employ persons in excess of the hours fixed by the Industrial Welfare Commission (“IWC”) or under conditions prohibited by the Industrial Wage Commission Wage Orders codified at 8 Cal. Code Reg., Division 1 (the “Wage Order”).

Within the last year, California Labor Code § 1194, provided: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or 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 minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.”

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At all times relevant hereto, Labor Code § 2802 provided, in pertinent part: “An employer shall 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, even though unlawful...Necessary expenditures or losses shall include attorney’s fees incurred by the employee enforcing the rights granted by this section.”

GALLERIA FOODS’ VIOLATIONS OF THE CALIFORNIA LABOR CODE:

Galleria Foods, by and through their systematic policies and practices, violated the California Labor Code, including, but not limited to those provisions identified herein, by: arguably misclassifying Aggrieved Employees as purported independent contractors, failing to pay the Aggrieved Employees for all the time worked as a result of Galleria Foods clocking out for purported meal period and, yet, continuing to work, and/or automatically deducting thirty (30) minutes from the Aggrieved Employees’ time worked even though a valid meal period had not been provided the Aggrieved Employees; unlawfully altering timecards and payroll records so as to falsely deduct and/or not accurately record, time from the hours worked by the Aggrieved Employees despite the fact that they continued to work during said period so deducted and/or not recorded; requiring the Aggrieved Employees to work “off the clock” to complete their job duties; not paying for the Aggrieved Employees’ travel time to jobs; not paying for the time expended by the Aggrieved Employees donning and doffing; not paying the Aggrieved Employees for attendance at mandatory meetings; not paying the Aggrieved Employees for the time associated with travel to and waiting for jobs which were ultimately cancelled; rounding down hours, and/or artificially deducting one-half hour from shifts in excess of five hours. Galleria Foods’s unlawful reductions, deductions, and/or failure to document all hours worked substantially reduced the earned hours worked for which the Aggrieved Employees received compensation, as well as improperly changed payment of hours that should have been compensated at an overtime rate to wages calculated at their regular rate of pay. Galleria Foods unlawfully failed, refused and continue to fail and refuse to pay compensation for all hours worked by the Aggrieved Employees at their regular rate of pay.

Moreover, during the course of their employment with Galleria Foods, the Aggrieved Employees performed work without being paid the required overtime wage under Labor Code § 1182.12. In particular, the Aggrieved Employees performed work in excess of eight hours per day, forty hours per week, and/or the first eight hours of work on a seventh consecutive day as well as double their regular rate of pay for work in excess of twelve hours per day or in excess of eight hours on the seventh consecutive day of work, without being paid the required overtime wages under California law, including, but not limited to, the Wage Order and Labor Code §§ 510, 512. Galleria Foods unlawfully failed, refused and continue to fail and refuse to pay the Aggrieved Employees one and one-half times their regular rate of pay for hours worked in excess of 8 hours in a given day, 40 hours in a given seven-day period, in addition to the first 8 hours of the seventh consecutive day of work; as well as double their regular rate of pay for work in excess of twelve hours per day, or in excess of eight hours on the seventh consecutive day of work.

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Within the last year, 8 Cal. Code Reg. (“CCR”) § 11070 (Industrial Welfare Commission, Industry and Occupation Orders, Wage Order (the “Wage Order”), which applies to Employees and their non-exempt coworkers employment with Galleria Foods specifically, required that each non-exempt employee working at least 3.5 hours must be given a paid rest period of not less than ten consecutive minutes, uninterrupted, where the employee is relieved of all duties; a second rest period of not less than ten consecutive minutes must be given to each non-exempt employee working at least six hours in any given workday; and a third rest period for shifts in excess of ten hours.

Within the last year, Labor Code §226.7, provided that each non-exempt employee who was not permitted to take a valid rest period mandated thereunder must be paid one hour of additional pay at the employee’s regular rate of pay for each such workday in which a valid rest period was not provided.

Within the last year, Labor Code § 512 required that each employee working at least five hours must be given a paid or unpaid meal period of not less than thirty consecutive minutes, uninterrupted, where the employee is relieved of all job duties; and that a second meal period of not less than thirty consecutive minutes, uninterrupted, be given to each employee working at least ten hours in any given workday.

Within the last year, Labor Code § 558 provided, in pertinent part, “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: (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. (3) Wages recovered pursuant to this section shall be paid to the affected employee.

Within the last year, pursuant to Labor Code §§ 1197 and 1198, it was unlawful to pay less than the wage established by law or to employ persons in excess of the hours fixed by the Industrial Welfare Commission (“IWC”) or under conditions prohibited by the Industrial Wage Commission Wage Orders codified at 8 Cal. Code Reg., Division 1 (the “IWC Wage Order”).

GALLERIA FOODS’ VIOLATIONS OF THE CALIFORNIA LABOR CODE:

Within the last year, Galleria Foods maintained a policy and practice of unlawfully misclassifying employees as independent contractors and thereby skirting its obligations as an employer, i.e., paying overtime and double time compensation, providing lawful meal, rest, and cool-down periods or compensation in lieu thereof, reimbursing travel and business expenditures, and timely paying all wages, among other wrongdoings.

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Galleria Foods have promulgated and enforced policies and practices, whereby the Aggrieved Employees regularly worked shifts in excess of four hours without being permitted the opportunity to take a paid rest period of at least ten (10) consecutive minutes, uninterrupted, relieved of all job duties, and worked more than six (6) hours at a time without being allowed a second paid ten (10) consecutive minute, uninterrupted, rest period, relieved of all job duties. Instead, Galleria Foods have unlawfully failed and refused and continue to fail and refuse to pay monies to the Aggrieved Employees for labor performed during the rest periods which Galleria Foods refused to permit the Aggrieved Employees opportunity to take.

Further, Galleria Foods have promulgated and enforced policies and practices under which the Aggrieved Employees worked more than five (5) hours at a time without being permitted the opportunity to take a meal period of at least thirty (30) consecutive minutes, uninterrupted, relieved of all job duties, and worked more than ten (10) hours at a time without being allowed a second thirty (30) consecutive minute, uninterrupted, meal period, relieved of all job duties.

The nature of the work performed by the Aggrieved Employees did not prevent them from being relieved of all job duties. The Aggrieved Employees have never been paid their earned compensation for work they performed during the meal period to which they were entitled, yet not provided the opportunity to take, as well as additional monies required under Labor Code § 226.7. Instead, Galleria Foods unlawfully failed, refused and continue to fail and refuse to pay monies to the Aggrieved Employees for labor performed during the meal periods which Galleria Foods refused to provide the Aggrieved Employees the opportunity to take.

Within the last year, California law, including, but not limited to, Labor Code § 204 provided that all wages, other than those mentioned in Labor Code § 201, 202, 204.1, or 204.2, earned by any person in any employment, are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

GALLERIA FOODS' VIOLATIONS OF THE CALIFORNIA LABOR CODE:

Galleria Foods failed to timely tender the Aggrieved Employees all of their earned minimum and regular wages, overtime wages, and Labor Code § 226.7 compensation, earned by the Aggrieved Employees, in accordance with California law, including, but not limited to, Labor Code § 204, such that labor performed between the 1st and 15th days, inclusive, of any calendar month was not paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, was not paid for between the 1st and 10th day of the following month.

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As a consequence of Galleria Foods' failure to timely tender the Aggrieved Employees all of their earned minimum and regular wages, overtime wages, and Labor Code § 226.7 compensation, Plaintiffs were deprived of the timely receipt of their earned wages and other compensation and, as a result thereof, were deprived of the interest and monetary appreciation that would accrue on said monies - financial growth which Galleria Foods were afforded the opportunity to realize as a consequence of their unlawful and unfair withholding of said wages and compensation earned by, and due and owing, the Aggrieved Employees.

To date, as set forth in detail above, Galleria Foods have failed to pay Employees and their fellow non-exempt coworkers all of their earned minimum, regular-rate, and overtime wages, Labor Code § 226.7 compensation, the accrued interest thereon, and failed to remit the Labor Code § 558 penalties to be imposed as a consequence of said violations of the California Labor Code.

Within the last year, Labor Code § 201 provided that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

Within the last year, Labor Code § 202 provided that if an employee not having a written contract for a definite period quits their employment, their wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of their intention to quit, in which case the employee is entitled to their wages at the time of quitting.

Within the last year, Labor Code § 203 provided that an employer who willfully fails to pay, without abatement or reduction, in accordance with Labor §§ 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the daily wages of the employee shall continue as a penalty from the due date thereof at the same daily rate until paid or until an action therefore is commenced up to, but not more than thirty (30) days.

GALLERIA FOODS' VIOLATIONS OF THE CALIFORNIA LABOR CODE:

Within the last year, the Aggrieved Employees' employment relationship with Galleria Foods were terminated without Galleria Foods paying all wages, compensation and benefits due the Aggrieved Employees in the time period prescribed by the Labor Code. The Aggrieved Employees have been available and ready to receive wages, compensation and benefits owed to them. The Aggrieved Employees have not refused to receive any payment, nor have the Aggrieved Employees been absent from their regular place of residence to receive the wages, compensation and benefits due and owing them by Galleria Foods. Galleria Foods' failure to pay the Aggrieved Employees their wages, compensation and benefits due and owing, as set forth in detail herein, was willful. Galleria Foods have knowingly refused to pay the Aggrieved Employees all of the wages, compensation, and benefits due and owing the Aggrieved Employees.

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Within the last year, California Labor Code § 226 required Galleria Foods, at the time of each payment of wages, to furnish each of their employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee, . . . (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and their social security number, (8) the name and address of the legal entity that is the employer, 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.

GALLERIA FOODS' VIOLATIONS OF THE CALIFORNIA LABOR CODE:

Galleria Foods failed to provide to the Aggrieved Employees an itemized statement in writing that complied with Labor Code § 226, including, but not limited to, the following: failing to identify the name and address of the legal entity that is the employer; failing to accurately report the total number of hours actually worked by the Aggrieved Employees; failing to accurately record all earned overtime; failing to record earned split shift wages, failing to list the applicable hourly rate in effect during the pay period and accurately record the corresponding number of hours worked at each hourly rate by Plaintiffs and their fellow Aggrieved Employees; and failing to record earned Labor Code 226.7 compensation.

Within the last year, California's Wage Theft Prevention Act, codified in part in California Labor Code § 2810.5, provided in pertinent part: (a) (1) At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information: (A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable. (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances. (C) The regular payday designated by the employer in accordance with the requirements of this code. (D) The name of the employer, including any "doing business as" names used by the employer. (E) The physical address of the employer's main office or principal place of business, and a mailing address, if different. (F) The telephone number of the employer. (G) The name, address, and telephone number of the employer's workers' compensation insurance carrier. (H) That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates. (I) Any other information the Labor Commissioner deems material and necessary. ... (b) An employer shall notify his or her employees in writing of any changes to the information set forth in the notice within seven calendar days after the time of the changes, unless one of the following applies: (1) All changes are reflected on a timely wage statement furnished in accordance with Section 226. (2) Notice of all changes is provided in another writing required by law within seven days of the changes.

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GALLERIA FOODS' VIOLATIONS OF THE CALIFORNIA LABOR CODE:

Galleria Foods were not security services companies licensed by the Department of Consumer Affairs and that solely provided security services. The Aggrieved Employees were not directly employed by the state or any political subdivision thereof, including any city, county, city and county, or special district. Further, the Aggrieved Employees were not exempt from the payment of overtime wages by statute or the wage orders of the Industrial Welfare Commission. Further, the Aggrieved Employees were not covered by a valid collective bargaining agreement which expressly provided for the wages, hours of work, and working conditions of the employee, or an agreement which provided premium wage rates for all overtime hours worked and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage. Despite their clear statutory obligation, Galleria Foods have failed to provide the Aggrieved Employees the written notice required pursuant to the California's Wage Theft Prevention Act, codified in part in California Labor Code § 2810.5.

Within the last year, Labor Code § 206.5 provided in pertinent part: (a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor. (b) For purposes of this section, execution of a release includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

GALLERIA FOODS' VIOLATIONS OF THE CALIFORNIA LABOR CODE:

Galleria Foods had a uniform policy and practice to violate Labor Code § 206.5 by, inter alia: requiring the Aggrieved Employees to execute a statement of the hours he worked during the pay period which Galleria Foods knew to be false. Said statement did not accurately denote all hours worked Aggrieved Employees, including, but not limited to: artificially deducting, rounding down, and/or not accurately recording, time from the hours worked by the Aggrieved Employees despite the fact that they continued to work during said period so deducted and/or not recorded; not recording all overtime and minimum wage hours worked; not recording off the-clock hours; not recording rest period that Galleria Foods' did not permit the Aggrieved Employees to take; not recording meal periods that Galleria Foods did not provide the Aggrieved Employees; and deducting time for meal periods that were not provided the Aggrieved Employees.

Within the last year, California law, including, but not limited to, Labor Code § 2802, provided in pertinent part: "(a) An employer shall indemnify his or their employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or their duties, or of his or their obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

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Further, Claimant contends that Chun Ying Jin and Hai Hua Li were employers and/or individuals acting on behalf of said employer, Galleria Foods, and that said individuals violated or caused to be violated provisions of the Labor Code and orders of the Industrial Welfare Commission regulating minimum wages, hours of work, and days of work, as described with more particularity herein. Claimant is further informed and believes that Messrs. Chun Ying Jin and Hai Hua Li were Managing Agents of Galleria Foods, as the phrase "Managing Agents" is utilized in Civil Code §3294.

Once vested with the statutory authority, Mr. Alvarado, on behalf of herself and other similarly situated aggrieved employees, will pursue an action against Galleria Foods, and each of them, for violations of the above-referenced Labor Code provisions.

Should the California Labor and Workforce Development Agency have any questions or comments regarding the foregoing, or any aspect of this matter, please do not hesitate to contact my office.

Very Truly Yours,

DENIS & RASI, PC



Paul Denis