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Attorneys for Plaintiff ARLENE L. JARAMILLO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ARLENE L. JARAMILLO,

Plaintiff,

v.

JVS FOODS, INC.; and DOES 1 through
50, inclusive,

Defendant.

Case No.: **21TRCV00423**

COMPLAINT FOR DAMAGES

1. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Provide Accurate Itemized Wage Statements;
5. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Pay Wages Due Upon Termination of Employment; and
6. Violation of the Private Attorneys' General Act, Labor Code §2698 et seq for Failure to Indemnify for Expenditures or Losses in Discharge of Duties.

1 Plaintiff ARLENE JARAMILLO ("Plaintiff" or "Ms. Jaramillo") complains and alleges as
2 follows:

3 **INTRODUCTION**

4 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
5 who were subjected to one or more of the violations alleged herein ("Aggrieved Employees") by
6 Defendant JVS FOODS, INC. ("Defendant" or "JVS"). The term "Relevant Time Period" or
7 "Time Period" is defined as one (1) year prior to the filing of the complaint. Plaintiff reserves
8 the right to amend this complaint to reflect a different "Time Period" as further discovery is
9 conducted.

10 2. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief
11 against Defendant for its: (1) failure to pay all wages due, including minimum and overtime
12 wages; (2) failure to provide meal periods or premium compensation in lieu thereof; (3) failure to
13 provide rest periods or premium compensation in lieu thereof; (4) failure to provide accurate
14 itemized wage statements; (5) failure to pay wages due upon termination of employment; and (6)
15 failure to indemnify for expenditures or losses in discharge of duties.

16 3. At all relevant times herein, Defendant has consistently maintained and enforced
17 the following unlawful policies and practices against Plaintiff:

18 (a) Willfully refusing to pay all hours worked, including both minimum and overtime
19 wages;

20 (b) Willfully refusing to permit timely off-duty meal periods or providing
21 compensation in lieu thereof;

22 (c) Willfully refusing to permit rest periods or providing compensation in lieu
23 thereof;

24 (d) Willfully refusing to furnish accurate itemized wage statements upon payment of
25 wages;

26 (e) Willfully refusing to pay all wages due upon separation of employment; and

27 (f) Willfully refusing to pay for expenditures or losses in the discharge of their duties.

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5. Venue is proper in the County of Los Angeles, because the Defendant maintains its location and transacts business in this county, the obligations and liability arise in this county, and work performed by Plaintiff and Aggrieved Employees that form the subject of this action occurred in this county.

7. Further, there is no federal question at issue as the issues herein are based solely on California statutes and law, including the Labor Code, Code of Civil Procedure, Business and Professions Code, and California Rules of Court.

Plaintiff

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Defendant

9. Plaintiff is informed and believes, and based thereon alleges, that Defendant is a California corporation which maintains its headquarters in Lomita, California, and is and/or was the employer of Plaintiff and similarly situated employees during the Relevant Time Period. Plaintiff is informed and believes, Defendant operates quick-service restaurants throughout the state of California, including Los Angeles County.

10. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct herein alleged of Defendant sued herein as DOES 1 through 50, inclusive, but on information and belief alleges that said Defendant is legally responsible for the violations alleged herein. Plaintiff will amend this complaint to allege the true names and capacities of the DOE Defendant when ascertained.

11. Plaintiff is informed believes, and thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants operate as a joint venture and/or single business enterprise, integrated enterprise and/or are agents of one another, are alter egos, joint employers and conspire with one another to increase profits by engaging in the conduct described in this complaint.

12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned below was acting, at least in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant are legally attributable to the other Defendants.

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13. This complaint, Plaintiff brings this case as a representative action seeking penalties for the State of California in a representative capacity, as provided by the Private Attorney General Act, Labor Code section 2698 et seq. (“PAGA”), as an aggrieved employee was employed by Defendant and did not receive all wages due, was not paid regular wage, was not paid overtime, was not provided accurate wage statements, was not reimbursed for necessary expenditures, and was not able to take lawful meal and rest breaks or receive premium compensation in lieu thereof.

15. More than 65 days have passed since Plaintiff submitted her March 29, 2021, notice to the LWDA and Defendant of the specific alleged Labor Code violations and the LWDA have not provided notice to Plaintiff of its intent to investigate such alleged violations. Plaintiff further has received no notice of Defendant's intent to cure any of the alleged violations. Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action with regard to her March 29, 2021, PAGA notice.

16. This lawsuit arises out of an ongoing wrongful scheme by Defendant to deny its employees the benefits due under California's wage and hour laws for work performed in California. Defendant wrongfully refused to pay Plaintiff and the Aggrieved Employees regular wages, overtime compensation, business expense reimbursements, and other statutory benefits mandated by California.

COMPLAINT FOR DAMAGES

1 these positions remain non-exempt from California's wage and hour laws yet Defendant fails to
2 pay overtime, provide meal and rest breaks and otherwise pay all wages due to these non-exempt
3 employees or reimburse employees for business expenditures as required by law.

4 18. During the Relevant Time Period, Defendant failed to compensate Plaintiff and
5 the Aggrieved Employees for time spent donning and doffing Defendant's required work uniform.
6 Plaintiff and the Aggrieved Employees were required to be dressed in Defendant's uniform prior
7 to clocking-in through clocking-out. Defendant mandated Plaintiff and the Aggrieved Employees
8 to wear Defendant's uniform in order for Plaintiff and Aggrieved Employees to perform their job.
9 This "off-the-clock" work benefited Defendant and amounted to compensable time however,
10 Defendant failed to compensate Plaintiff and the Aggrieved Employees the required minimum
11 wage and overtime compensation in violation of the Labor Code and the IWC Wage Orders.

12 19. Defendant failed to provide Plaintiff and Aggrieved Employees with meal periods
13 in violation of the Labor Code and Industrial Welfare Commission ("IWC") Wage Orders.
14 Plaintiff and Aggrieved Employees were entitled to timely, uninterrupted, thirty (30) minute meal
15 periods with the first (5) hours worked. However, these breaks were either not provided, were
16 interrupted, or were provided late.

17 20. Defendant also failed to make reasonably available legally complaint rest periods.
18 Specifically, Plaintiff and the Aggrieved Employees could not take any duty-free breaks lasting
19 ten (10) minutes in violation of the Labor Code and the IWC Wage Orders, due to Defendant's
20 uniform practice of denying and/or interrupting these breaks.

21 21. Defendant further failed to reimburse Plaintiff and Aggrieved Employees for any
22 necessary business expenses. Specifically, Plaintiff and Aggrieved Employees were obligated to
23 wash and maintain Defendant's uniform off-the-clock. Defendant failed to reimburse Plaintiff
24 and Aggrieved Employees for the cost or time spent washing and maintaining Defendant's
25 uniform in violation of the Labor Code and the IWC Wage Orders.

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1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF PAGA FOR RECOVERY OF UNPAID MINIMUM WAGE AND**
3 **OVERTIME**

4 **(Plaintiff Against All Defendants)**

5 22. Plaintiff realleges and incorporates by reference the preceding paragraphs of this
6 complaint as if fully set forth herein.

7 23. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day
8 and forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees
9 minimum wage for all hours worked and overtime premium for hours worked in excess of over
10 eight (8) hours per day and/or forty (40) hours per week for work performed for the Defendant.
11 Defendant failed to pay Plaintiff and Aggrieved Employees overtime premium for hours worked
12 in excess of eight (8) hours per day and forty (40) hours per week for work performed for
13 Defendant. Defendant failed to schedule Plaintiff and Aggrieved Employees in such a manner
14 that allowed Plaintiff and Aggrieved Employees to be relieved of their shift immediately, thereby
15 causing Plaintiff and Aggrieved Employees to work in excess of eight (8) hours per day and/or
16 forty (40) hours per week. As such, Plaintiff and Aggrieved Employees seek overtime in an
17 amount according to proof, which they earned and accrued one (1) year prior to filing this
18 complaint, according to proof, as part of the civil penalty pursuant to Labor Code section 558,
19 subdivision (a).

20 24. Defendant willfully violated the Labor Code by failing to pay Plaintiff and
21 Aggrieved Employees all wages, including both minimum wage and overtime. Plaintiff and
22 Aggrieved Employees were denied proper wages as a result of Defendant's policy of having
23 Plaintiff and Aggrieved Employees don and doff Defendant's uniform and maintain Defendant's
24 uniform before clocking in and/or after clocking out, failing to compensate Plaintiff and
25 Aggrieved Employees for all hours worked at the proper rate of pay pursuant to Labor Code
26 section 510.

27 25. Since the LWDA has not indicated that it will be investigating more than 65 days
28 since Plaintiff provided notice, and because Defendant took no corrective action to remedy the

1 allegations set forth above, Plaintiff, as a representative of the people of the State of California,
2 will seek any and all penalties otherwise capable of being collected by the Labor Commission,
3 the LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each
4 of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3,
5 subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

6 26. Plaintiff is informed and believes that Defendant has violated, and continues to
7 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
8 minimum wages and overtime.

9 27. Plaintiff, as a personal representative of the general public, will and does seek to
10 recover any and all penalties for each and every violation shown to exist or to have occurred
11 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
12 otherwise only available to public agency enforcement actions. Funds recovered will be
13 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
14 reimbursed to the LWDA.

15 28. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
16 costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment
17 interest.

18 **SECOND CAUSE OF ACTION**

19 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR** 20 **PREMIUM COMPENSATION IN LIEU THEREOF**

21 **(Labor Code, Sections 226.7 and 512)**

22 **(Plaintiff against All Defendants)**

23 29. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
24 fully set forth herein.

25 30. Labor Code sections 226.7 and 512 and IWC Wage Order 5-2001, Sect. 11
26 provides that no employer shall employ any person for a work period of more than five (5) hours
27 without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes
28 or employ any person for a work period of more than ten (10) hours without a second meal period

1 of not less than thirty (30) minutes.

2 31. Labor Code section 226.7 provides that if an employer fails to provide an
3 employee a meal period in accordance with this section, the employer shall pay the employee one
4 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
5 period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide
6 legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not
7 relieving employees from all work duties during meal periods thereby preventing employees from
8 taking legally compliant meal periods.

9 32. Industrial Welfare Commission (IWC) Wage Order No. 5-2001 (Wage Order 5)
10 section 11(A) states, "Unless the employee is relieved of all duty during a 30-minute meal period,
11 the meal period shall be considered an "on duty" meal period and counted as time worked. An
12 "on duty" meal period shall be permitted only when the nature of the work prevents an employee
13 from being relieved of all duty and when by written agreement between the parties an on-the-job
14 paid meal period is agreed to. The written agreement shall state that the employee may, in writing,
15 revoke the agreement at any time."

16 33. The burden to prove that a meal or rest period violation has occurred normally
17 rests on the Plaintiff. However, under *Safeway, Inc. v. Superior Court* (238 Cal. App. 4th 1138,
18 1159-60 (2015)), where an employer fails to keep accurate records of meal and rest periods, a
19 presumption of meal and rest period violations is created, shifting the burden to the employer to
20 prove that meal and rest period violations did not occur.

21 34. Defendant failed to schedule non-exempt employees in an adequately overlapping
22 manner so as to reasonably ensure Plaintiff and Aggrieved Employees could take and/or receive
23 such meal periods within the statutory timeframe. Defendant denied Plaintiff and Aggrieved
24 Employees duty-free meal periods, as a result, Plaintiff and Aggrieved Employees were often
25 forced to forego meal periods and/or work during their meal periods. In so doing, Defendant has
26 intentionally and improperly denied meal periods to Plaintiff and Aggrieved Employees in
27 violation of Labor Code sections 226.7 and 512 and other regulations and statutes.

28 35. Defendant failed to keep accurate records of the meal periods taken by Plaintiff

1 and Aggrieved Employees.

2 36. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more
3 than five (5) hours in a workday.

4 37. At varying times relevant hereto, Plaintiff and Aggrieved Employees at times have
5 worked more than ten (10) hours in a workday.

6 38. At all times relevant hereto, Defendant, failed offer or to schedule non-exempt
7 positions in a manner so as to reasonably provide meal and/or work free meal period as required
8 by Labor Code sections 226.7 and 512.

9 39. Defendant's failure to schedule Plaintiff and Aggrieved Employees in such a way
10 as to provide meal periods, and/or work free meal periods to Plaintiff and Aggrieved Employees,
11 and/or to provide on-duty meal periods in accordance with the applicable Wage Order, has caused
12 Plaintiff and Aggrieved Employees to suffer, and continue to suffer, injury which will be
13 ascertained according to proof at trial.

14 40. Further, Defendant's failure to maintain accurate records of the meal periods taken
15 by Plaintiff and Aggrieved Employees creates a presumption of the violations having occurred
16 and shifts the burden to Defendant to prove they did not occur.

17 41. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
18 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
19 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
20 as the assessment of any civil penalties against Defendants, and each of them, in a sum as provided
21 by the Labor Code and/or other statutes.

22 42. Since the LWDA has not indicated that it will be investigating and 65 days have
23 passed since Plaintiff mailed his letter, and because Defendant took no corrective action to remedy
24 the allegations set forth above, Plaintiff, as a representative of the people of the State of California,
25 will seek any and all penalties otherwise capable of being collected by the Labor Commission,
26 the LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each
27 of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3,
28 subdivision (a), applies to any alleged violation of the following provisions: 510 and 1194.

1 43. Plaintiff is informed and believes that Defendant has violated and continues to
2 violate provisions of the Labor Code and applicable Wage orders related to the payment of
3 minimum wages, including overtime.

4 44. Plaintiff, as a personal representative of the general public, will and does seek to
5 recover any and all penalties for each and every violation shown to exist or to have occurred
6 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
7 otherwise only available to public agency enforcement actions. Funds recovered will be
8 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
9 reimbursed to the LWDA.

10 45. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
11 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

12 **THIRD CAUSE OF ACTION**

13 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS OR**
14 **PREMIUM COMPENSATION IN LIEU THEREOF**

15 **(Labor Code, Sections 226.7 and 512)**

16 **(Plaintiff against All Defendants)**

17 46. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
18 preceding paragraphs of this complaint as if fully set forth herein.

19 47. Labor Code section 226.7 provides that employers authorize and permit all
20 employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

21 48. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
22 provide an employee rest periods in accordance with this section, the employer shall pay the
23 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
24 that the rest period is not provided.

25 49. Defendant, and each of them, failed and or refused to implement a relief system
26 by which Plaintiff and Aggrieved Employees could receive rest periods and/or work free rest
27 periods. Defendant denied Plaintiff and Aggrieved Employees duty free rest periods by
28 interrupting Plaintiff and Aggrieved Employees' rest periods. By and through their actions,

1 Defendant intentionally and improperly denied duty free rest periods to the Plaintiff and
2 Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

3 50. Furthermore, Defendant failed to provide Plaintiff and Aggrieved Employees with
4 duty free rest periods or failed to provide Plaintiff and Aggrieved Employees with rest periods all
5 together in violation of Labor Code section 226.7 and 512.

6 51. Defendant failed to keep accurate records of the rest periods taken by Plaintiff and
7 Aggrieved Employees.

8 52. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked
9 more than four (4) hours in a workday.

10 53. By virtue of the Defendant's unlawful failure to provide rest periods to Plaintiff
11 and Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiff and
12 Aggrieved Employees have suffered, and will continue to suffer, damages, in amounts which are
13 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
14 ascertained according to proof at trial.

15 54. Plaintiff, by virtue of Plaintiff's employment with Defendant, Defendant's failure
16 to provide Plaintiff and Aggrieved Employees with rest breaks, and Defendant's policy of
17 requiring employees to work through their rest periods without receiving compensation in lieu
18 thereof, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has
19 satisfied all prerequisites to serve as a representative of the general public to enforce California's
20 labor laws, and the penalty provisions identified in Labor Code section 2699.5.

21 55. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
22 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
23 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
24 as the assessment of any civil penalties against Defendants, and each of them, in a sum as provided
25 by the Labor Code and/or other statutes. Plaintiff, as a representative of the people of the State of
26 California, will seek any and all penalties otherwise capable of being collected by the Labor
27 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
28 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any

1 alleged violation of the following provisions: 226.7 and 512.

2 56. Plaintiff, as a personal representative of the general public, will and does seek to
3 recover any and all penalties for each and every violation shown to exist or to have occurred
4 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
5 otherwise only available to public agency enforcement actions. Funds recovered will be
6 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
7 reimbursed to the LWDA.

8 57. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
9 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

10 **FOURTH CAUSE OF ACTION**

11 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE ACCURATE ITEMIZED**
12 **WAGE STATEMENTS**

13 **(Labor Code, Sections 1174, 226, subdivision (A), (E))**

14 **(Plaintiff against All Defendants)**

15 58. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
16 preceding paragraphs of this complaint as if fully set forth herein.

17 59. Labor Code section 226, subdivision (a), states in pertinent part that, "every
18 employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her
19 employees, either as a detachable part of the check, draft, or voucher paying the employee's
20 wages, or separately when wages are paid by personal check or cash, an accurate itemized
21 statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee . .
22 . . ; (3) the number of piece-rate units earned . . . ; (4) all deductions . . . ; (5) net wages; (6) the
23 inclusive dates of the period for which the employee is paid; (7) the name of the employee and
24 only the last four digits of his or her social security number or an employee identification number
25 other than a social security number; (8) the name and address of the legal entity that is the
26 employer . . . ; and (9) all applicable hourly rates in effect during the pay period and corresponding
27 number of hours worked at each hourly rate by the employee..." (Lab. Code, § 226.)

28 60. Defendant knowingly and intentionally failed to provide timely and accurate

1 itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code
2 section 226, subdivision (a), by failing to record the accurate number of hours worked, the
3 accurate rate of pay for each hour worked, the accurate amount of premiums wages earned, the
4 accurate net pay, and the accurate gross pay. Such failure caused injury to Plaintiff and Aggrieved
5 Employees.

6 61. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
7 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
8 initial pay period in which a violation occurs and one-hundred (\$100.00) per employee for each
9 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

10 62. Plaintiff, as a personal representative of the general public, will and does seek to
11 recover any and all penalties for each and every violation shown to exist or to have occurred
12 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
13 otherwise only available to public agency enforcement actions. Funds recovered will be
14 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
15 reimbursed to the LWDA.

16 63. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
17 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

18 **FIFTH CAUSE OF ACTION**

19 **VIOLATION OF PAGA FOR FAILURE TO PAY WAGES DUE UPON**
20 **TERMINATION OF EMPLOYMENT**

21 **(Labor Code, Sections 201, 203)**

22 **(Plaintiff against All Defendants)**

23 64. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
24 preceding paragraphs of this complaint as if fully set forth herein.

25 65. Plaintiff is informed and believes that certain members of the Aggrieved
26 Employees who ended their employment with Defendant during the Relevant Time Period, were
27 entitled to be promptly paid both minimum wage and lawful overtime compensation and other
28 premiums, as required by Labor Code sections 201 and 203.

66. Defendant refused and/or failed to promptly compensate Aggrieved Employees wages owed as a result of Defendant's failure to provide meal and/or rest periods as well as pay both minimum and overtime compensation owed for work performed for Defendant.

68. Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 201-203, 226, 226.7, 510, 512, 1174, and 1194.

70. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

71. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

1 72. Labor Code section 2802 states, "An employer shall indemnify his or her
2 employee for all necessary expenditures or losses incurred by the employee in direct consequence
3 of the discharge of his or her duties..."

4 73. Plaintiff and the Aggrieved Employees were not reimbursed by Defendant for
5 necessary expenditures as a direct consequence of the discharge of their duties.

6 74. Defendant knowingly, willingly and intentionally attempted to offset the cost of
7 doing business on the Plaintiff and Aggrieved Employees.

8 75. Defendant had a practice and policy of requiring Plaintiff and Aggrieved
9 Employees to shoulder the burden of Defendant's cost of doing business by failing to reimburse
10 Plaintiff and Aggrieved Employees for necessary business expenditures, specifically the cost of
11 washing and maintaining Defendant's uniforms.

12 76. Accordingly, Plaintiff and Aggrieved Employees are entitled to an award of
13 "necessary expenditures or losses" which shall include all reasonable costs, including, but not
14 limited to, attorney's fees and interest.

15 77. Plaintiff by virtue of his employment with Defendant and the Defendant's policy
16 of requiring Plaintiff and Aggrieved Employees to shoulder the burden of Defendant's cost of
17 doing business by failing to reimburse Plaintiff and Aggrieved Employees for necessary
18 expenditures, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
19 has satisfied all prerequisites to serve as a representative of the general public to enforce
20 California's labor laws, and the penalty provisions identified in Labor Code section 2699.5.

21 78. Plaintiff, as a representative of the people of the State of California, will seek any
22 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
23 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
24 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:
25 201-203, 226, 226.7, 510, 512, 1174, and 1194.

26 79. Plaintiff, as a personal representative of the general public, will and does seek to
27 recover any and all penalties for each and every violation shown to exist or to have occurred
28 during the Relevant Time Period, in an amount according to proof, as to those penalties that are

1 otherwise only available to public agency enforcement actions. Funds recovered will be
2 distributed in accordance with the PAGA, with at least 75% of the penalties recovered being
3 reimbursed to the LWDA.

4 80. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
5 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

6
7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff and Aggrieved Employees pray for judgment as follows:

- 9 1. For civil penalties for each violation for Plaintiff and each Aggrieved
10 Employee as provided by law, including, but not limited to, those civil
11 penalties provided by statute, provided by PAGA and for unpaid wages
12 pursuant to Labor Code section 558;
- 13 2. For costs of suit and expenses incurred herein pursuant to Labor Code section
14 2699, subdivision (g), and any other statutory basis or pursuant to the
15 California Rules of Court;
- 16 3. For reasonable attorneys' fees pursuant to Labor Code section 2699,
17 subdivision (g), and any other statutory basis; and
- 18 4. For all such other and further relief as the Court may deem just and proper.
- 19

20 Dated: June 9, 2021

MAHONEY LAW GROUP, APC

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24 By: _____

25 Kevin Mahoney, Esq.
26 John A. Young, Esq.
27 Attorney for Plaintiff ARLENE L. JARAMILLO
28

EXHIBIT A



Kevin Mahoney, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
kmahoney@mahoney-law.net

March 29, 2021

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA CERTIFIED MAIL # 7019 2970 0000 2983 6995

Return Receipt Requested

JVS Foods Inc. dba Jack in the Box
25601 Narbonne Avenue, Suite F
Lomita, CA 90717

VIA CERTIFIED MAIL # 7019 2970 0000 2983 7008

Return Receipt Requested

JVS Foods Inc. dba Jack in the Box- Agent for Service of Process
Attn: Victoria Su
25601 Narbonne Avenue, Suite F
Lomita, CA 90717

Re: Arlene L. Jaramillo v. JVS Foods Inc. dba Jack in the Box

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency; JVS Foods Inc. dba Jack in the Box

From: Arlene L. Jaramillo, on behalf of herself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Arlene L. Jaramillo ("Ms. Jaramillo" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* ("PAGA"), on behalf of herself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

JVS Foods Inc. dba Jack in the Box (hereinafter “JVS” or “Employer”) is a California corporation that operates restaurants throughout California. Ms. Jaramillo began her employment with Employer in or around June 2019 until the end of her employment in or around December 2020.

Ms. Jaramillo alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 1174, 1194, and 2802 by failing to pay Ms. Jaramillo and all other aggrieved employees all wages owed, including minimum wage and overtime, failing to provide accurate wage statements and maintain accurate payroll records, failing to provide all wages earned at end of employment and failing to reimburse for necessary business expenditures. Ms. Jaramillo and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

A. Employer failed to pay Ms. Jaramillo and other aggrieved employees for all hours worked, in accordance with California law, including both minimum wage and overtime

Ms. Jaramillo and other aggrieved employees were regularly not compensated for all hours worked, including minimum wages as well as overtime wages, which is in violation of Labor Code sections 510, 1194, 1182.12, 1197 and is actionable under Labor Code section 2699.5. Employer's failed to pay Ms. Jaramillo and other aggrieved employees the legally mandated wage rates for all hours Ms. Jaramillo and other aggrieved employees worked. Employer failed to use a blended rate for purposes of calculating Ms. Jaramillo and aggrieved employees regular for purposes of calculating the legal overtime rate for purposes of paying overtime. Employer failed to compensate Ms. Jaramillo and other aggrieved employees during time which they were subject to the control of Employer, or suffered or permitted to work for Employer. Specifically, Employer failed to compensate Ms. Jaramillo and other aggrieved employees for time spent maintaining and donning and doffing Employer's required work uniform. Ms. Jaramillo and other aggrieved employees were required to be dressed in their uniform prior to clocking in for their shift, and were required to be dressed in their uniform at the time they clocked out for their shift. Accordingly, time spent maintaining and donning and doffing Employer's uniform was performed without compensation for their time and in violation of Labor Code sections 510, 1194, 1182.12, 1197 and is actionable under PAGA as a violation of Labor Code sections 227.3, 510 and 1194.

B. Employer failed to provide Ms. Jaramillo and other aggrieved employees with meal and rest periods, or premium compensation in lieu thereof, in accordance with California law.

Ms. Jaramillo alleges that she and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the

nature of their work. Ms. Jaramillo and other aggrieved employees allege that often they did not receive at least one duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the 11th hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.). When employees were prevented from taking timely and complete meal periods, they did not receive premium pay as compensation for the missed meal period.

Ms. Jaramillo further alleges that she and other aggrieved employees often had to miss rest periods for every four (4) hours worked, or major fraction thereof, as required by the Labor Code. When employees were prevented from taking rest breaks, they did not receive premium pay for the missed rest break.

Ms. Jaramillo alleges she and other aggrieved employees were not compensated with premium pay for every meal period and rest period that was not provided. Furthermore, Ms. Jaramillo alleges that Employer failed to pay the proper premium pay where Employer failed to use a blended rate as a result of paying different hourly rates. Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512.

C. Employer failed to provide Ms. Jaramillo and other aggrieved employees compliant wage statements

By failing to include on Ms. Jaramillo's and other aggrieved employees' pay stubs all compensation for all regular hours and overtime hours worked, Employer failed to keep accurate payroll records and failed to provide Ms. Jaramillo and other aggrieved employees with complete and accurate wage statements. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

D. Employer failed to pay all wages earned at the time their employment ended to Ms. Jaramillo and aggrieved employees

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, 203 and 204, due to its uniform policy, practice, and procedure of failing to pay all wages earned to former employees at the time their employment ended. At the time of Ms. Jaramillo and other aggrieved employees' end of employment, they were entitled to receive all wages that are owed as a result of Employer's failure to pay all wages for the time worked/subjected to Employer's control and or meal/rest break premiums owed in lieu of missed breaks. However, Employer failed to pay such wages at the end of Ms. Jaramillo and other aggrieved employees' employment.

E. Employer Failed to Reimburse Ms. Jaramillo and Aggrieved Employees for Necessary Business Expenditures

Here, not only were Ms. Jaramillo and other aggrieved employees required to wear a uniform bearing Employer's logos, but they were forced to shoulder the burden of maintaining their own uniforms. Specifically, Employer required Ms. Jaramillo and other aggrieved

employees to wash and maintain their work uniforms which contains Employer's logo at their own expense. Ms. Jaramillo alleges that she and her coworkers had to wash their uniforms separate from their personal clothing because of their uniforms were heavily soiled as a result of carrying out their job duties. Employer failed to reimburse Ms. Jaramillo and other aggrieved employees for the cost of washing and maintaining Employer's uniform which is required as part of their employment. Employer failure to reimburse Ms. Jaramillo and other aggrieved employees for the cost of washing and maintaining Employer's uniform is in violation of Labor Code section 2802 and therefore is actionable under PAGA.

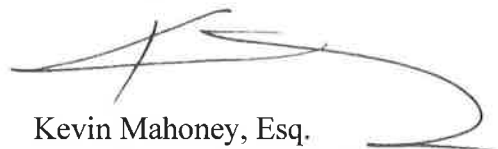
F. Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Ms. Jaramillo becomes aware of additional compensation owed or losses incurred by Ms. Jaramillo or by any other aggrieved employee of the Employer, Ms. Jaramillo expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

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Sincerely,



Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC