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Attorneys for Plaintiff ARSALAN HEJAZI, as a representative of the State of California and the Labor and Workforce Development Agency, and on behalf of himself and other similarly-situated current and former employees,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF LOS ANGELES

ARSALAN HEJAZI,

Plaintiff,

v.

EL POLLO LOCO, INC., and DOES 1 through
50, inclusive,

Defendants.

Case No.: **21STCV27436**

COMPLAINT FOR CIVIL PENALTIES

1. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
2. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Provide Rest Periods;
3. Violation of the Private Attorneys General Act, Labor Code § 2698 et seq. for Recovery of Unpaid Wages and Overtime;
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 Reimburse for Necessary Business Expenditures; and
6. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Pay Wages Due Upon Termination of Employment.

1 Plaintiff ARSALAN HEJAZI (“Plaintiff”) complains and alleges as follows:

2 **INTRODUCTION**

3 1. This is a representative action brought pursuant to the Private Attorneys General
4 Act, Labor Code section 2698, *et seq.* (“PAGA”) on behalf of Plaintiff and all similarly-aggrieved
5 employees who were subjected to one or more of the violations alleged herein (“Aggrieved
6 Employees”) by Defendant El Pollo Loco, Inc. (“Defendant”).

7 2. The term “PAGA Period” is defined as one (1) year and sixty-five (65) days prior
8 to the filing of this complaint. Plaintiff reserves the right to amend this complaint to reflect a
9 different PAGA Period as further discovery is conducted.

10 3. “Aggrieved Employees” is defined as non-exempt hourly-paid restaurant
11 employees throughout California employed by Defendant in its corporate-owned locations during
12 the PAGA period.

13 4. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief
14 against Defendant for violations of numerous Labor Code provisions, including, but not limited
15 to, sections 201, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, and 2802 for: (1) failure to
16 provide meal periods or premium compensation in lieu thereof, (2) failure to provide rest periods
17 or premium compensation in lieu thereof, (3) failure to pay all regular and overtime wages due,
18 (4) failure to provide accurate itemized wage statements, (5) failure to reimburse for necessary
19 business expenditures, and (6) failure to pay all wages due upon termination of employment.

20 5. At all relevant times herein, Defendant has consistently maintained and enforced
21 the following unlawful policies and practices against Plaintiff:

- 22 a. Willfully refusing to permit off-duty meal periods or provide premium
23 compensation in lieu thereof;
- 24 b. Willfully refusing to permit rest periods or provide premium compensation in
25 lieu thereof;
- 26 c. Willfully refusing to pay for all hours worked, including both regular and
27 overtime wages;
- 28 d. Willfully refusing to furnish accurate itemized wage statements;

- e. Willfully refusing to reimburse for necessary business expenditures; and
f. Willfully refusing to pay all wages due upon separation of employment.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the causes of action alleged in this complaint as a Court of general subject matter jurisdiction and is not otherwise excluded from exercising subject matter jurisdiction over said causes of action. The penalties recoverable for Plaintiff individually do not exceed seventy-five thousand dollars (\$75,000.00), and collectively amongst all Aggrieved Employees do not exceed five million dollars (\$5,000,000.00).

7. Defendant, El Pollo Loco, Inc., is a Delaware Corporation with its principal executive office in California as provided in its California Secretary of State, Statement of Information, Entity File Number C1652999. There is no federal question at issue, as the issues herein are based solely on California statutes and law, including the Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders, Code of Civil Procedure, Business and Professions Code, and Rules of Court. By doing business in the state of California, Defendant has purposefully availed themselves of the state’s jurisdiction. Accordingly, as personal jurisdiction over Defendant would be constitutional, California’s long-arm statute provides that California courts may exercise personal jurisdiction over Defendant. (Code Civ. Proc., § 410.10).

8. Venue is proper in the County of Los Angeles because Defendant transacts substantial business in this County, and the acts or omissions giving rise to the causes of action in this complaint occurred in this County.

THE PARTIES

Plaintiff

9. Plaintiff was employed by Defendant from in or around August, 2018, until on or about November 25, 2020, at Defendant’s West Los Angeles, California location. Throughout the PAGA Period, Plaintiff was employed by Defendant in a non-exempt, hourly position. Plaintiff and Aggrieved Employees consist of identifiable, current, and/or formerly similarly situated persons who worked for Defendant as hourly-paid non-exempt restaurant employees in Defendant’s corporate-owned locations during the PAGA Period.

1 **Defendant(s)**

2 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant owns
3 and operates a fast-food restaurant chain and maintains its headquarters in Costa Mesa, California.

4 11. Plaintiff is further informed and believes that Defendant was the employer of
5 Plaintiff and Aggrieved Employees during the PAGA Period.

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

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

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

25 **PAGA ADMINISTRATIVE PREREQUISITE**

26 15. Plaintiff brings this case as a representative action seeking penalties for the State
27 of California in a representative capacity, as provided for under PAGA, Labor Code section 2698
28 *et seq.*, to the extent permitted by law, as an aggrieved employee who was employed by Defendant

1 and did not receive all regular and overtime wages due, was not provided compliant meal or rest
2 periods or premium compensation in lieu thereof, was not provided accurate itemized wage
3 statements, was not reimbursed for necessary business expenditures, and did not receive all wages
4 owed upon termination of employment.

5 16. Pursuant to Labor Code section 2699.3, subdivision (a), a plaintiff may bring a
6 cause of action under the PAGA only after giving the Labor Workforce Development Agency
7 (LWDA) and the employer notice of the Labor Code sections alleged to have been violated, and
8 after receiving notice from the LWDA of its intention not to investigate, or after 65 days have
9 passed without notice from the LWDA.

10 17. On May 19, 2021, prior to the filing of this complaint, Plaintiff gave written notice
11 of the specified provisions alleged to have been violated, including the facts and theories to
12 support the alleged violations, as required by Labor Code section 2699.3. This written notice was
13 given via certified mail to Defendant, and to the LWDA by electronically filing the notice via the
14 Department of Industrial Relations website. Plaintiff was given an LWDA case number of
15 LWDA-CM-832648-21. Attached herein as **Exhibit A**, is a true and correct copy of Plaintiff's
16 original letter sent to the LWDA on May 19, 2021.

17 18. More than 65 days have elapsed since Plaintiff submitted his May 19, 2021 notice
18 to the LWDA and Defendant of the specific alleged Labor Code violations and the LWDA has
19 not provided notice to Plaintiff of its intent to investigate such alleged violations. Also, Plaintiff
20 has not received notice of Defendant's intent to cure any of the alleged violations. Accordingly,
21 Plaintiff has satisfied the administrative prerequisites for filing this action.

22 **FACTUAL ALLEGATIONS**

23 19. Plaintiff and Aggrieved Employees are, and at all times during the PAGA Period
24 were, non-exempt employees within the meaning of the California Labor Code, and California
25 Wage Order 5–2001 of the Industrial Welfare Commission (“IWC Wage Order”). Defendant is,
26 and at all times during the PAGA Period was, an “employer” within the meaning of state law and
27 IWC Wage Order 5–2001.

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1 20. Defendant owns and/or operates a quick service restaurant in West Los Angeles,
2 California. During all, or a portion of the PAGA Period, Plaintiff and Aggrieved Employees were
3 employed by Defendant in the State of California.

4 21. During the PAGA Period, Defendant was required to permit Plaintiff and
5 Aggrieved Employees to take one (1) uninterrupted thirty (30) minute meal period prior to the
6 sixth (6th) hour of work. Defendant was also required to permit Plaintiff and Aggrieved
7 Employees to take one (1) ten (10) minute rest period for every four (4) hours, or major fraction
8 thereof worked. However, due to the nature of their work, combined with the requirements and
9 demands of Defendant, Plaintiff and Aggrieved Employees were unable to take the meal and rest
10 periods to which they were entitled. Defendant scheduled Plaintiff and Aggrieved Employees in
11 such a manner that they were precluded from taking one duty-free uninterrupted meal period
12 before the sixth (6th) hour of work and at least one (1) ten (10) minute rest period for every four
13 (4) hours or major fraction thereof worked. Defendant prioritized work responsibilities over
14 providing meal and rest breaks, and failed to schedule enough employees to provide relief for
15 Plaintiff and Aggrieved Employees to take their requisite meal and rest periods.

16 22. In order to appear compliant, Defendant instructed Plaintiff and Aggrieved
17 Employees to clock out prior to the sixth (6th) hour of work, but required them to continue
18 working. Defendant required Plaintiff and Aggrieved Employees to defer all or part of their meal
19 period until later in their shift or forego their meal period altogether.

20 23. Plaintiff and Aggrieved Employees were also precluded from taking rest breaks
21 due to insufficient staffing. Defendant instructed Plaintiff and Aggrieved Employees to delay or
22 forego their rest breaks to prioritize completing their work duties.

23 24. Further, when Plaintiff and Aggrieved Employees were prevented from taking the
24 required meal and rest periods, Defendant failed to compensate them with a premium pay for
25 every missed meal period and failed to compensate with a premium pay on all workdays on which
26 a rest period was missed. Not only did Defendant fail to compensate Plaintiff and Aggrieved
27 Employees for missed meal and rest periods, Defendant deducted thirty (30) minutes of pay every
28 shift by requiring Plaintiff and Aggrieved Employees to clock out for thirty (30) minutes,

1 notwithstanding the fact that Plaintiff and Aggrieved Employees were working continuously
2 throughout that time.

3 25. As a result of Defendant's policies and practices of failing to provide Plaintiff and
4 Aggrieved Employees with meal or rest breaks, or premium pay in lieu thereof, Defendant
5 violated Labor Code sections 226.7, 512, 1194, 1197, and the applicable IWC Wage Order, and
6 is subject to penalties under PAGA.

7 26. During the PAGA Period, Defendant was required to pay Plaintiff and Aggrieved
8 Employees overtime compensation for any and all hours worked in excess of eight (8) in one (1)
9 workday and/or forty (40) in one (1) workweek.

10 27. Defendant mandated that Plaintiff and Aggrieved Employees arrive to work
11 dressed in a required uniform prior to clocking in for their shift, and that they remove the uniform
12 only after clocking out for the day. Thus, Defendant failed to compensate Plaintiff and Aggrieved
13 Employees for the time spent donning and doffing their uniforms. Further, to the extent that
14 Plaintiff and Aggrieved Employees already worked an eight (8) hour shift, any time spent donning
15 and doffing their uniforms is compensable at the applicable overtime rate.

16 28. During the PAGA Period, Defendant was required to provide Plaintiff and
17 Aggrieved Employees with complete and accurate wage statements. Defendant provided Plaintiff
18 and Aggrieved Employees with wage statements that were incomplete and inaccurate as they
19 were not compensated for all hours worked, not compensated at the correct applicable wage rates,
20 and were not provided premium pay for missed rest and meal periods.

21 29. By virtue of Defendant's failure to pay Plaintiff and Aggrieved Employees the
22 appropriate overtime rate, deducting thirty (30) minutes from their pay despite not providing them
23 with timely, uninterrupted meal breaks, and failing to provide them with premium pay in lieu
24 thereof, Defendant also failed to provide Plaintiff and Aggrieved Employees with accurate
25 itemized wage statements that reflect, among other things, the gross wages earned, all applicable
26 hourly rates in effect during the pay period, and the corresponding number of hours worked at
27 each hourly rate by the employee.

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1 30. During the PAGA Period, Defendant was required to reimburse Plaintiff and
2 Aggrieved Employees for any and all necessary business expenditures. Plaintiff and Aggrieved
3 Employees were required to wear uniforms bearing Defendant's name and logo and were required
4 to wash and maintain said uniforms at their own expense and on their own time. Plaintiff and
5 Aggrieved Employees were not reimbursed for the costs of washing and maintaining their
6 uniforms, or for the time spent doing so, which were mandatory requirements of their employment
7 with Defendant. Defendant's failure to provide full and complete reimbursement for all necessary
8 business expenditures incurred by Plaintiff and Aggrieved Employees is in violation of Labor
9 Code section 2802, and is subject to penalties under PAGA.

10 31. At the time that Plaintiff and any of the Aggrieved Employees employment ended,
11 Defendant was required to compensate them for all wages owed. However, Defendant failed to
12 compensate Plaintiff and any of the Aggrieved Employees whose employment ended during the
13 PAGA Period for all wages owed at the time their employment ended for all hours worked or at
14 the applicable overtime rate. Additionally, Plaintiff and Aggrieved Employees had thirty (30)
15 minutes of pay deducted from their wages each day and were entitled to compensation for those
16 thirty (30) minutes in which they were not provided timely and uninterrupted meal periods.
17 Finally, Plaintiff and Aggrieved Employees were also owed compensation in the form of premium
18 pay for the times they worked during meal and rest periods which were not paid at the time their
19 employment ended. Defendant's failure to pay Plaintiff and Aggrieved Employees timely upon
20 termination of their employment is in violation of Labor Code sections 201, 202, and 203 and is
21 subject to penalties under PAGA.

22 32. Plaintiff, by virtue of his employment with Defendant, is an aggrieved employee
23 with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve
24 as a representative of the general public to enforce California's labor laws, and the penalty
25 provisions identified in Labor Code section 2699.5.

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FIRST CAUSE OF ACTION
VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR
PREMIUM COMPENSATION IN LIEU THEREOF
(Lab. Code, §§ 226.7 and 512)
(Plaintiff Against All Defendants)

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

34. Labor Code sections 226.7 and 512 and Industrial Welfare Commission (IWC) Wage Order No. 5–2001, section 11, provide that no employer shall employ any person for a work period of more than five (5) hours without providing an uninterrupted meal period of at least thirty (30) minutes.

35. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided in accordance with this section.

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

37. Plaintiff alleges that Defendant failed or refused to provide legally compliant meal periods by failing to relieve Plaintiff and Aggrieved Employees from all work duties to allow for timely and uninterrupted meal periods. Defendant’s intentional conduct denied Plaintiff and Aggrieved Employees their lawfully required meal periods. Moreover, Defendant did not compensate Plaintiff and Aggrieved Employees for their missed meal periods with one hour of regular pay as required by law.

38. IWC Wage Order No. 5–2001 section 11(A), provides that if an employee is not relieved of all duties during a thirty (30) minute meal period, the meal period is considered “on duty” and counts as time worked. “On duty” meal periods are only permitted when the nature of the work prevents an employee from being relieved of all duties, in which case a written agreement between the employer and employee for an on duty paid meal period is required.

1 39. Here, neither of those requirements are met. The nature of Plaintiff and Aggrieved
2 Employees work duties prevented them from being relieved from their duties in order to take
3 timely and uninterrupted meal breaks. Plaintiff's and Aggrieved Employee's job duties could be
4 paused for thirty (30) minutes or could be performed by another employee during their meal
5 breaks, but Defendant failed to implement a work schedule that would allow Plaintiff and
6 Aggrieved Employees to take their meal periods, and prioritized work tasks over meal period
7 compliance. Plaintiff and Aggrieved Employees never agreed to waive their meal periods, nor
8 were asked by Defendant to sign a waiver. Further, Defendant had a practice of deducting thirty
9 (30) minutes pay from Plaintiff and Aggrieved Employees hours, presumably for a meal period,
10 though none were had, proving Plaintiff and Aggrieved Employees never received on duty paid
11 meal periods.

12 40. During the PAGA Period, Defendant failed to schedule Plaintiff and Aggrieved
13 Employees in such a manner as to ensure that they could take proper meal periods as required by
14 law. Defendant denied Plaintiff and Aggrieved Employees uninterrupted duty-free meal periods
15 resulting in Plaintiff and Aggrieved Employees being forced to work during meal periods or
16 forego them altogether. Further, Defendant failed to provide premium compensation to Plaintiff
17 and Aggrieved Employees in lieu of their meal periods. As such, Defendant intentionally and
18 improperly denied meal periods to Plaintiff and Aggrieved Employees in violation of Labor Code
19 sections 226.7 and 512 and IWC Wage Order No. 5-2001, and is subject to penalties under PAGA.

20 41. By virtue of Defendant's violation of the provisions of Labor Code sections 226.7
21 and 512, Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing
22 violations incurring civil penalties, the amount of which are presently unknown, but will be
23 ascertained according to proof at trial.

24 42. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved
25 Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the
26 first initial violations and two hundred dollars (\$200.00) per pay period for each subsequent
27 violation.

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1 43. More than sixty-five (65) days have elapsed since Plaintiff provided notice to the
2 LWDA, and the LWDA has indicated no intention to investigate. Further, Defendant has provided
3 no cure notice, and has not taken any steps of corrective action to remedy the allegations set forth
4 above. Accordingly, pursuant to Labor Code sections 2699 and 2699.3, Plaintiff, individually and
5 on behalf of the Aggrieved Employees and the State of California, seeks penalties for violations
6 of Labor Code sections 226.7 and 512 during the PAGA Period, in an amount according to proof,
7 that would otherwise only be collected through public agency enforcement actions by the Labor
8 Commission, the LWDA and/or the DLSE.

9 44. 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 PAGA Period, in an amount according to proof, as to those penalties that are otherwise
12 only available to public agency enforcement actions. Funds recovered will be distributed in
13 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
14 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
15 Aggrieved Employees.

16 45. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
17 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

18 **SECOND CAUSE OF ACTION**

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

21 **(Lab. Code, § 226.7)**

22 **(Plaintiff Against All Defendants)**

23 46. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
24 preceding paragraphs as if fully set forth herein.

25 47. Labor Code section 226.7 and IWC Wage Order No. 5–2001, section 12, require
26 that employers permit all employees to take a ten (10) minute rest period for every four (4) hours
27 worked, or major fraction thereof. Further, when an employer fails to provide an employee with
28 required rest periods, the employer must pay the employee one (1) hour of pay at the employee's

1 regular rate of pay for each workday that at a required rest period is not provided.

2 48. Plaintiff alleges that Defendant failed or refused to provide legally compliant rest
3 periods by failing to relieve Plaintiff and Aggrieved Employees from all work duties to allow for
4 timely and uninterrupted rest periods. Defendant's intentional conduct denied Plaintiff and
5 Aggrieved Employees their lawfully required rest periods. Moreover, Defendant did not
6 compensate Plaintiff and Aggrieved Employees for their missed rest periods with one hour of
7 regular pay as required by law.

8 49. During the PAGA Period, Plaintiff and Aggrieved Employees worked more than
9 four (4) hours in a workday and Defendant failed to schedule Plaintiff and Aggrieved Employees
10 in such a manner as to ensure that they could take proper rest periods as required by law.
11 Defendant therefore denied Plaintiff and Aggrieved Employees rest periods resulting in Plaintiff
12 and Aggrieved Employees being forced to work during rest periods or forego them altogether.
13 Further, Defendant failed to provide premium compensation to Plaintiff and Aggrieved
14 Employees in lieu of their rest periods. As such, Defendant intentionally and improperly denied
15 rest periods to Plaintiff and Aggrieved Employees in violation of Labor Code section 226.7 and
16 IWC Wage Order No. 5-2001, and is subject to penalties under PAGA.

17 50. By virtue of Defendant's violation of the provisions of Labor Code section 226.7,
18 Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing violations
19 incurring civil penalties, the amount of which are presently unknown, but will be ascertained
20 according to proof at trial.

21 51. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved
22 Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the
23 initial violations and two hundred dollars (\$200.00) per pay period for each subsequent violation.

24 52. More than sixty-five (65) days have elapsed since Plaintiff provided notice to the
25 LWDA, and the LWDA has indicated no intention to investigate. Further, Defendant has provided
26 no cure notice, and has not taken any steps of corrective action to remedy the allegations set forth
27 above. Accordingly, pursuant to Labor Code sections 2699 and 2699.3, Plaintiff, individually and
28 on behalf of the Aggrieved Employees and the State of California, seeks penalties for violations

1 of Labor Code sections 2699 and 2699.3. Plaintiff, individually and on behalf of the Aggrieved
2 Employees and the State of California, seeks penalties for violations of Labor Code section 226.7
3 during the PAGA Period, in an amount according to proof, that would otherwise only be collected
4 through public agency enforcement actions by the Labor Commission, the LWDA and/or the
5 DLSE.

6 53. Plaintiff, as a personal representative of the general public, will and does seek to
7 recover any and all penalties for each and every violation shown to exist or to have occurred
8 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
9 only available to public agency enforcement actions. Funds recovered will be distributed in
10 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
11 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
12 Aggrieved Employees.

13 54. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
14 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

15 **THIRD CAUSE OF ACTION**

16 **VIOLATION OF PAGA FOR FAILURE TO PAY ALL WAGES**

17 **(Lab. Code, §§ 204, 510, 1194, and 1197)**

18 **(Plaintiff Against All Defendants)**

19 55. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
20 preceding paragraphs as if fully set forth herein.

21 56. Pursuant to Labor Code section 204, subdivision (a), "[a]ll wages ... earned by
22 any person in any employment are due and payable twice during each calendar month."

23 57. Labor Code section 1194 mandates that employers pay employees no less than the
24 minimum wage for each hour worked, and Labor Code section 1197 holds that "the payment of
25 a lower wage than the minimum so fixed is unlawful."

26 58. Pursuant to Labor Code section 510, subdivision (a), "[a]ny work in excess of eight
27 hours in one workday and any work in excess of 40 hours in any one workweek ... shall be
28 compensated at the rate of no less than one and one-half times the regular rate of pay for an

1 employee.”

2 59. Plaintiff and Aggrieved Employees were required to report to work wearing a
3 mandatory uniform and were not permitted to remove said uniform until after they clocked out
4 for the day. Thus, Defendant failed to compensate Plaintiff and Aggrieved Employees for all
5 hours worked in violation of Labor Code sections 226 and 1174, and is subject to penalties under
6 PAGA. The time worked off the clock by Plaintiff and Aggrieved Employees caused the total
7 number of hours worked to exceed eight (8) in a workday and forty (40) in a workweek, yet
8 Defendant did not compensate Plaintiff and Aggrieved Employees at the applicable overtime rate.
9 Defendant also deducted thirty (30) minutes of pay each workday, even though Plaintiff and
10 Aggrieved Employees worked continuously throughout the shift without a meal period.

11 60. By virtue of Defendant’s failure to pay Plaintiff and Aggrieved Employees all
12 wages due, Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing
13 violations incurring civil penalties, the amount of which are presently unknown, but will be
14 ascertained according to proof at trial.

15 61. Labor Code section 558, subdivision (a), imposes civil penalties on employers for
16 violating “any provision regulating hours and days of work” of fifty dollars (\$50) for the initial
17 violation and one hundred dollars (\$100) for each subsequent violation “for each underpaid
18 employee for each pay period for which the employee was underpaid in addition to an amount
19 sufficient to recover underpaid wages.”

20 62. Labor Code section 1197.1 provides that “[a]ny employer ... who pays or causes
21 to be paid to any employee a wage less than the minimum fixed by an applicable state or local
22 law, or by an order of the commission shall be subject to a civil penalty ... as follows: (1) For any
23 initial violation that is intentionally committed, one hundred dollars (\$100.00) for each underpaid
24 employee for each pay period for which the employee is underpaid ... (2) For each subsequent
25 violation for the same specific offense, two hundred fifty dollars (\$250.00) for each underpaid
26 employee for each pay period for which the employee is underpaid regardless of whether the
27 initial violation is intentionally committed.”

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63. Since the LWDA has not indicated that it will be investigating more than sixty-five (65) days since Plaintiff provided notice, and because Defendant took no corrective action to remedy the allegations set forth above, 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, the LWDA 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: Labor Code sections 204, 510, 1194, and 1197.

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

65. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all Aggrieved Employees.

66. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

FOURTH CAUSE OF ACTION

VIOLATION OF PAGA FOR FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Lab. Code, §§ 226 and 1174)

(Plaintiff Against All Defendants)

67. Plaintiff and Aggrieved Employees reallege and incorporate by reference all preceding paragraphs as if fully set forth herein.

68. Labor Code section 1174 requires employers to keep accurate payroll records. Labor Code section 226, subdivision (a), requires that "at the time of each payment of wages,"

1 employers furnish employees with “an accurate itemized statement” that includes, *inter alia*,
2 gross wages earned, total hours worked, net wages earned, and all applicable hourly rates in effect
3 during the pay period and the corresponding number of hours worked at each hourly rate.

4 69. An employee is deemed to suffer injury if the employer fails to provide a wage
5 statement containing all of the required information set forth in Labor Code section 226,
6 subdivision (a). (Lab. Code § 226, subd. (e)(2)). Plaintiff alleges that Defendant knowingly and
7 intentionally failed to provide Plaintiff and Aggrieved Employees wage statements in compliance
8 with Labor Code section 226, because said statements contained inaccurate gross wages earned,
9 an inaccurate total number of hours worked, inaccurate net wages earned, inaccurate applicable
10 hourly rates in effect during the pay period, and an inaccurate number of hours worked at each
11 hourly rate.

12 70. In particular, Defendant failed to include the appropriate hours, wages, and
13 remuneration for its failure to provide Plaintiff and Aggrieved Employees meal and rest periods
14 or premium compensation in lieu thereof, overtime compensation pursuant to the provisions of
15 Labor Code section 510, and for any hours and wages for work Plaintiff and Aggrieved
16 Employees were required to perform prior to, or after the conclusion of, their shifts. To the extent
17 that Plaintiff and Aggrieved Employees worked more than eight (8) hours in a workday, they
18 were entitled to overtime wages that were not included on their wage statements. Plaintiff and
19 Aggrieved Employees also had thirty (30) minutes deducted from their total hours worked each
20 workday even though they worked continuously throughout the workday with no meal period.
21 Additionally, the only hourly rate listed on Plaintiff and Aggrieved Employees’ wage statements
22 is their regular hourly rate. Thus, the overtime rate, as well as the hours worked at that rate, are
23 missing which makes said wage statements inaccurate.

24 71. Consequently, Plaintiff and Aggrieved Employees’ wage statements omitted the
25 applicable overtime rate and reflected an inaccurate total number of hours worked, and inaccurate
26 gross and net wages earned in violation of Labor Code sections 226 and 1174, and subject to
27 penalties under PAGA.

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1 72. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a)
2 of Section 226 shall be subject to a civil penalty in the amount of two hundred and fifty dollars
3 (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000.00) per
4 employee for each violation in a subsequent citation, for which the employer fails to provide the
5 employee a wage deduction statement or fails to keep the records required in subdivision (a) of
6 Section 226. The civil penalties provided for in this section are in addition to any other penalty
7 provided by law.

8 73. Since the LWDA has not indicated that it will be investigating more than sixty-
9 five (65) days since Plaintiff provided notice, and because Defendant took no corrective action to
10 remedy the allegations set forth above, Plaintiff, as a representative of the people of the State of
11 California, will seek any and all penalties otherwise capable of being collected by the Labor
12 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
13 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
14 alleged violation of the following provisions: Labor Code sections 226 and 1174.

15 74. Plaintiff is informed and believes that Defendant has violated, and continues to
16 violate, provisions of the Labor Code and applicable Wage Orders related to the provision of
17 accurate itemized wage statements.

18 75. Plaintiff, as a personal representative of the general public, will and does seek to
19 recover any and all penalties for each and every violation shown to exist or to have occurred
20 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
21 only available to public agency enforcement actions. Funds recovered will be distributed in
22 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
23 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
24 Aggrieved Employees.

25 76. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
26 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

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FIFTH CAUSE OF ACTION
VIOLATION OF PAGA FOR FAILURE TO REIMBURSE FOR NECESSARY
BUSINESS EXPENDITURES
(Lab. Code, § 2802)
(Plaintiff Against All Defendants)

77. Plaintiff and Aggrieved Employees reallege and incorporate by reference all preceding paragraphs as if fully set forth herein.

78. Labor Code section 2802, subdivision (a), provides that “[a]n 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.”

79. Defendant provided Plaintiff and Aggrieved Employees with uniforms which they were required to wear during their employment with Defendant. However, Plaintiff and Aggrieved Employees were required to wash and maintain these uniforms at their own expense and were not reimbursed for the costs thereof or for the time spent doing so. Defendant’s failure to reimburse Plaintiff and Aggrieved Employees for maintaining their uniforms is in violation of Labor Code section 2802, and is subject to penalties under PAGA.

80. By virtue of Defendant’s violation of the provisions of Labor Code section 2802, Plaintiff and Aggrieved Employees suffered, and continue to be subject to ongoing violations incurring civil penalties, the amount of which are presently unknown, but will be ascertained according to proof at trial.

81. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the initial violation and two hundred dollars (\$200.00) per pay period for each subsequent violation.

82. More than sixty-five (65) days have elapsed since Plaintiff provided notice to the LWDA, and the LWDA has indicated no intention to investigate. Further, Defendant has provided no cure notice, and has not taken any steps of corrective action to remedy the allegations set forth above. Accordingly, pursuant to Labor Code sections 2699 and 2699.3, Plaintiff, individually and

1 on behalf of the Aggrieved Employees and the State of California, seeks penalties for violations
2 of Labor Code section 2802 during the PAGA Period, in an amount according to proof, that would
3 otherwise only be collected through public agency enforcement actions by the Labor Commission,
4 the LWDA and/or the DLSE.

5 83. Plaintiff, as a personal representative of the general public, will and does seek to
6 recover any and all penalties for each and every violation shown to exist or to have occurred
7 during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise
8 only available to public agency enforcement actions. Funds recovered will be distributed in
9 accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered
10 being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all
11 Aggrieved Employees.

12 84. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
13 and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

14 **SIXTH CAUSE OF ACTION**

15 **VIOLATION OF PAGA FOR FAILURE TO PAY ALL WAGES DUE UPON**
16 **TERMINATION OF EMPLOYMENT**

17 **(Lab. Code, §§ 201, 203)**

18 **(Plaintiff Against All Defendants)**

19 85. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
20 preceding paragraphs as if fully set forth herein.

21 86. Labor Code section 201, subdivision (a), states that "[i]f an employer discharges
22 an employee, the wages earned and unpaid at the time of discharge are due and payable
23 immediately."

24 87. Pursuant to Labor Code section 202, subdivision (a), "[i]f an employee not having
25 a written contract for a definite period quits his or her employment, his or her wages shall become
26 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
27 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
28 wages at the time of quitting."

1 88. At the time that Plaintiff and any of the Aggrieved Employees' employment ended,
2 they were entitled to timely compensation of regular and overtime wages for all hours worked,
3 premium compensation for all missed meal and rest periods, and reimbursement for necessary
4 business expenditures.

5 89. Defendant failed or refused to compensate Plaintiff and Aggrieved Employees for
6 all hours worked, any missed meal or rest periods, and necessary business expenditures. As a
7 result of Defendant's failure to do so, Plaintiff and Aggrieved Employees have suffered, and
8 continue to suffer, injury which will be ascertained according to proof at trial.

9 90. Plaintiff is informed and believes that Defendant has violated, and continues to
10 violate, provisions of the Labor Code related to the requirement to pay all wages due upon
11 termination of employment.

12 91. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved
13 Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the
14 initial violations and two hundred dollars (\$200.00) per pay period for each subsequent violation.

15 92. Pursuant to Labor Code section 203, subdivision (a), "[i]f an employer willfully
16 fails to pay ... any wages of any employee who is discharged or who quits, the wages of the
17 employee shall continue as a penalty from the due date thereof at the same rate until paid or until
18 an action therefor is commenced; but the wages shall not continue for more than 30 days." Labor
19 Code section 256 provides for civil penalties not exceeding 30 days pay at the employees' same
20 rate of pay.

21 93. Since the LWDA has not indicated that it will be investigating more than sixty-
22 five (65) days since Plaintiff provided notice, and because Defendant took no corrective action to
23 remedy the allegations set forth above, Plaintiff, as a representative of the people of the State of
24 California, will seek any and all penalties otherwise capable of being collected by the Labor
25 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
26 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
27 alleged violation of the following provisions: Labor Code sections 201 and 203.

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94. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the PAGA Period, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA and twenty-five percent (25%) to be paid to Plaintiff and all Aggrieved Employees.

95. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis.

PRAYER FOR RELIEF

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

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

Dated: July 26, 2021

MAHONEY LAW GROUP, APC

Nathaniel Adams

Katherine J. Odenbreit, Esq.
Kate Blanco, Esq.
Attorney for Plaintiff Arsalan Hejazi