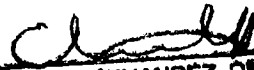


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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 31 2021

BY 
EDUARDO HERNANDEZ, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN BERNARDINO

CIV SB 2125306

12 MAURA GAMERO, as an aggrieved
13 employee pursuant to the Private Attorneys
14 General Act ("PAGA"), on behalf of the
15 State of California and other aggrieved
16 employees,

17 Plaintiff,

18 vs.

19 JIB HOLDINGS I, LLC, a California
20 limited liability company; ALLIED
21 RESTAURANT MANAGEMENT, LLC, a
22 California limited liability company;
23 DESERT JACK, LLC, a California limited
24 liability company; ENVISION FOODS,
25 LLC, a California limited liability
26 company; ENV MANAGEMENT, LLC, a
27 California limited liability company; TNH
28 PARTNERS, LLC, a California limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No.:

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

- (1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Maura Gamero, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants at “dd’s Discounts” retail locations in
8 California as a non-exempt, hourly paid employee and received at least one wage statement
9 and against whom one or more violations of any provision in Division 2 Part 2 Chapter 1 of
10 the Labor Code or any provision regulating hours and days of work in the applicable Industrial
11 Welfare Commission (“IWC”) Wage Order were committed, as set forth in this complaint, at
12 any time between one year prior to the filing of the pre-filing written notice to the Labor and
13 Workforce Development Agency (“LWDA”) in this case on June 24, 2021¹, until judgment
14 (“non-party Aggrieved Employees”). Plaintiff’s share of civil penalties sought in this action
15 does not exceed \$75,000.

16 2. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, section 10. The statute under which this action is brought does not
18 specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over all Defendants because, on information and
20 belief, Defendants are either citizens of California, have sufficient minimum contacts in
21 California, or otherwise intentionally avail themselves of the California market so as to render
22 the exercise of jurisdiction over them by the California courts consistent with traditional
23 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
24 in this action given that the State of California, as the real party in interest in this action, is not
25 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
26 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
27 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction

28 ¹ As properly tolled by California Rule of Court App. I. R.R. Emergency Rule 9.

1 in this action, and that diversity jurisdiction cannot be established when Plaintiff's share of the
2 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

3 4. Venue is proper in this Court because Defendants filed a Statement of
4 Information form with the California Secretary of State designating a principal place of business
5 in Victorville, County of San Bernardino, in accordance with California Corporations Code
6 section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in this Court because
7 Defendants employ persons in this county, and thus a substantial portion of the transactions
8 and occurrences related to this action occurred in this county.

9 5. California Labor Code sections 2698, *et seq.*, the "Labor Code Private
10 Attorneys General Act of 2004" ("PAGA"), authorize aggrieved employees to sue as private
11 attorneys general their current or former employers for various civil penalties for violations of
12 various provisions in the California Labor Code.

13 **THE PARTIES**

14 6. Plaintiff Maura Gamero is a resident of city of Mojave in Kern County,
15 California. Defendants employed Plaintiff as an hourly paid, non-exempt Team Leader from
16 approximately August 4, 2020 to September 2020. Plaintiff worked for Defendants at their
17 Jack in the Box restaurant located at 15536 Highway 14, Mojave, California. Plaintiff
18 typically worked six (6) to eight (8) hours or more per day and five (5) days per week.
19 Plaintiff was compensated approximately \$14.50 per hour. Her job duties included, without
20 limitation, operating the cash register, cooking and preparing food, providing customer
21 service, and cleaning her station.

22 7. JIB HOLDINGS I, LLC was and is, upon information and belief, a California
23 limited liability company, and at all times hereinafter mentioned, an employer whose
24 employees are engaged throughout this county and the State of California.

25 8. ALLIED RESTAURANT MANAGEMENT, LLC was and is, upon
26 information and belief, a California limited liability company, and at all times hereinafter
27 mentioned, an employer whose employees are engaged throughout this county and the State of
28 California.

1 9. DESERT JACK, LLC was and is, upon information and belief, a California
2 limited liability company, and at all times hereinafter mentioned, an employer whose
3 employees are engaged throughout this county and the State of California.

4 10. ENVISION FOODS, LLC was and is, upon information and belief, a California
5 limited liability company, and at all times hereinafter mentioned, an employer whose
6 employees are engaged throughout this county and the State of California.

7 11. ENV MANAGEMENT, LLC was and is, upon information and belief, a
8 California limited liability company, and at all times hereinafter mentioned, an employer
9 whose employees are engaged throughout this county and the State of California.

10 12. TNH PARTNERS, LLC was and is, upon information and belief, a California
11 limited liability company, and at all times hereinafter mentioned, an employer whose
12 employees are engaged throughout this county and the State of California.

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

17 14. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
18 were the partners, agents, owners, or managers of JIB HOLDINGS I, LLC; ALLIED
19 RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC; ENVISION FOODS, LLC;
20 ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC (collectively, "JIB") at all relevant
21 times.

22 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the
23 acts and omissions alleged herein was performed by, or is attributable to, JIB HOLDINGS I,
24 LLC; ALLIED RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC; ENVISION
25 FOODS, LLC; ENV MANAGEMENT, LLC; TNH PARTNERS, LLC; and/or DOES 1
26 through 10, each acting as the agent, employee, alter ego, and/or joint venturer of, or working
27 in concert with, each of the other co-Defendants and was acting within the course and scope of
28 such agency, employment, joint venture, or concerted activity with legal authority to act on

1 the others' behalf. The acts of any and all Defendants were in accordance with, and represent,
2 the official policy of Defendants.

3 16. At all relevant times, Defendants, and each of them, ratified each and every act
4 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
5 and abetted the acts and omissions of each and all the other Defendants in proximately causing
6 the damages herein alleged.

7 17. Plaintiff is informed and believes, and thereon alleges, that each of said
8 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
9 omissions, occurrences, and transactions alleged herein.

10 18. Under California law, Defendants are jointly and severally liable as employers
11 for the violations alleged herein because they have each exercised sufficient control over the
12 wages, hours, working conditions, and employment status of Plaintiff and other non-party
13 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
14 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
15 of employment, determined their rate of pay, and maintained their employment records.
16 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
17 and/or "engaged" Plaintiff and other non-party Aggrieved Employees so as to create a
18 common-law employment relationship. As joint employers of Plaintiff and other non-party
19 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
20 available to Plaintiff and other non-party Aggrieved Employees under the law.

21 19. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
22 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
23 non-party Aggrieved Employees because Defendants have:

- 24 (a) jointly exercised meaningful control over the work performed by
25 Plaintiff and other non-party Aggrieved Employees;
26 (b) jointly exercised meaningful control over Plaintiff's and other non-party
27 Aggrieved Employees' wages, hours, and working conditions, including
28 the quantity, quality standards, speed, scheduling, and operative details

1 of the tasks performed by Plaintiff and other non-party Aggrieved
2 Employees;

- 3 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
4 perform work which is an integral part of Defendants' businesses; and
5 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
6 Employees as a matter of economic reality in that Plaintiff and other
7 non-party Aggrieved Employees were dependent on Defendants, who
8 shared the power to set the wages of Plaintiff and other non-party
9 Aggrieved Employees and determined their working conditions, and
10 who jointly reaped the benefits from the underpayment of their wages
11 and noncompliance with other statutory provisions governing their
12 employment.

13 20. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
14 there has existed a unity of interest and ownership between Defendants such that any
15 individuality and separateness between the entities has ceased.

16 21. JIB HOLDINGS I, LLC; ALLIED RESTAURANT MANAGEMENT, LLC;
17 DESERT JACK, LLC; ENVISION FOODS, LLC; ENV MANAGEMENT, LLC; and TNH
18 PARTNERS, LLC; and DOES 1 through 10 are therefore alter egos of each other.

19 22. Adherence to the fiction of the separate existence of Defendants would permit
20 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
21 from liability for the wrongful acts committed by them under the name JIB.

22 23. Plaintiff further alleges, upon information and belief, that Defendants JIB
23 HOLDINGS I, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; DESERT JACK,
24 LLC; ENVISION FOODS, LLC; ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC
25 are alter egos of each other for the following reasons:

- 26 (a) On the California Secretary of State's website
27 (<https://businesssearch.sos.ca.gov/>), JIB HOLDINGS I, LLC; ALLIED
28 RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC;

ENVISION FOODS, LLC; ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC share the same entity address and mailing address, “15401 Anacapa Road, Victorville, CA 92392;”

- (b) According to their Statement of Information forms filed with the California Secretary of State, ENV MANAGEMENT, LLC is the manager for JIB HOLDINGS, LLC and ENVISION FOODS, LLC; while TNH PARTNERS, LLC is the manager for DESERT JACK, LLC;
- (c) According to their Statement of Information forms filed with the California Secretary of State, ALLIED RESTAURANT MANAGEMENT, LLC; ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC share the same managers and/or members, including, but not limited to, Hamid Sharafatian and/or Navid Sharafatian;
- (d) On the California Secretary of State’s website, JIB HOLDINGS I, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC; ENVISION FOODS, LLC; ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC share the same agent for service of process, “Navid Sharafatian;” and
- (e) On information and belief, JIB HOLDINGS I, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC; ENVISION FOODS, LLC; ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC utilize the same standardized employment forms, including, but not limited to, employee scheduling forms, and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

24. Defendants own and operate approximately 120 Jack in the Box franchise restaurant locations in three states, including at least 50 restaurant locations in California. Upon information and belief, Defendants maintain a centralized Human Resources (“HR”)

1 department at their corporate headquarters in Victorville, California, which is responsible for
2 the recruiting and hiring of new employees, and communicating and implementing
3 Defendants' company-wide policies, including timekeeping policies and meal and rest period
4 policies, to employees throughout California.

5 25. In particular, Plaintiff and other non-party Aggrieved Employees, on
6 information and belief, received the same standardized documents and/or written policies.
7 Upon information and belief, the usage of standardized documents and/or written policies,
8 including new-hire documents, indicate that Defendants dictated policies at the corporate level
9 and implemented them company-wide, regardless of their employees' assigned locations or
10 positions. Upon information and belief, Defendants set forth uniform policies and procedures
11 in several documents provided at an employee's time of hire.

12 26. Upon information and belief, Defendants maintain a centralized Payroll
13 department at their corporate headquarters in Victorville, California, which processes payroll
14 for all non-exempt, hourly paid employees working for Defendants at their various locations
15 and jobsites in California, including Plaintiff and other non-party Aggrieved Employees.
16 Based upon information and belief, Defendants issue the same formatted wage statements to
17 all non-exempt, hourly paid employees in California, irrespective of their work locations.
18 Upon information and belief, Defendants process payroll for departing employees in the same
19 manner throughout the State of California, regardless of the manner in which each employee's
20 employment ends.

21 27. Defendants continue to employ non-exempt or hourly paid employees in
22 California.

23 28. Plaintiff is informed and believes, and thereon alleges, that at all times herein
24 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
25 and advisors knowledgeable about California labor and wage law, employment and personnel
26 practices, and about the requirements of California law.

27 29. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
28 non-party Aggrieved Employees were not paid for all hours worked because all hours worked

1 were not recorded.

2 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
4 receive certain wages for overtime compensation and that they were not receiving certain
5 wages for overtime compensation.

6 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that other non-party Aggrieved Employees were entitled to be paid at a
8 regular rate of pay, and corresponding overtime rates of pay, that included as eligible income
9 all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of
10 compensation, but failed to incorporate all forms of remuneration in calculating the regular
11 rate of pay for other non-party Aggrieved Employees.

12 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
14 receive at least minimum wages for compensation and that they were not receiving at least
15 minimum wages for work that was required to be done off-the-clock. In violation of the
16 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
17 least minimum wages for work done off-the-clock.

18 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
20 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
21 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
22 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
23 other non-party Aggrieved Employees were not provided with all meal periods or payment of
24 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
25 uninterrupted, thirty (30) minute meal period.

26 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
28 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or

1 payment of one (1) additional hour of pay at their regular rates of pay when they were not
2 authorized and permitted to take a compliant rest period. In violation of the California Labor
3 Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted
4 to take compliant rest periods, nor did Defendants provide Plaintiff and other non-party
5 Aggrieved Employees with payment of one (1) additional hour of pay at their regular rates of
6 pay when they were not authorized and permitted to take a compliant rest period.

7 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
9 receive complete and accurate wage statements in accordance with California law. In
10 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
11 were not provided complete and accurate wage statements.

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

16 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
18 timely payment of wages during their employment. In violation of the California Labor Code,
19 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
20 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period
21 premiums, within permissible time periods.

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

28 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
2 suitable seating and/or were entitled to sit when it did not interfere with the performance of
3 their duties and have seats nearby to use during a lull in tasks that do require moving about or
4 standing. In violation of the California Labor Code and applicable IWC Wage Order,
5 Defendants failed to provide Plaintiff and other non-party Aggrieved Employees suitable
6 seating.

7 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
9 receive reimbursement for all business-related expenses and costs they incurred during the
10 course and scope of their employment and that they did not receive reimbursement of
11 applicable business-related expenses and costs incurred.

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

18 42. At all times herein set forth, PAGA provides that any provision of law under
19 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
20 assessed and collected by the LWDA for violations of the California Labor Code and
21 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
22 civil action brought on behalf of themselves and other current or former employees pursuant
23 to procedures outlined in California Labor Code section 2699.3.

24 43. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
25 person who was employed by the alleged violator and against whom one or more of the
26 alleged violations was committed."

27 44. Plaintiff and other current and former employees of Defendants are "aggrieved
28 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current

1 or former employees and one or more of the alleged violations were committed against them.

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

- 5 (a) The aggrieved employee shall give written notice by online filing
6 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail
7 to the employer of the specific provisions of the California Labor Code
8 alleged to have been violated, including the facts and theories to support
9 the alleged violations.
- 10 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
11 2699.3(a) and any employer response to that notice shall be
12 accompanied by a filing fee of seventy-five dollars (\$75).
- 13 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
14 employer and the aggrieved employee by certified mail that it does not
15 intend to investigate the alleged violation within sixty (60) calendar
16 days of the postmark date of the Employee’s Notice. Upon receipt of
17 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
18 five (65) calendar days of the postmark date of the Employee’s Notice,
19 the aggrieved employee may commence a civil action pursuant to
20 California Labor Code section 2699 to recover civil penalties in addition
21 to any other penalties to which the employee may be entitled.

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

- 26 (a) The aggrieved employee or representative shall give written notice by
27 online filing to the LWDA and by certified mail to the employer of the
28 specific provisions of the California Labor Code alleged to have been

1 violated (other than those listed in Section 2699.5), including the facts
2 and theories to support the alleged violation.

3 (b) An aggrieved employee's notice filed with the LWDA pursuant to
4 2699.3(c) and any employer response to that notice shall be
5 accompanied by a filing fee of seventy-five dollars (\$75).

6 (c) The employer may cure the alleged violation within thirty-three (33)
7 calendar days of the postmark date of the notice. The employer shall
8 give written notice by certified mail within that period of time to the
9 aggrieved employee or representative and the agency if the alleged
10 violation is cured, including a description of actions taken, and no civil
11 action pursuant to Section 2699 may commence. If the alleged violation
12 is not cured within the 33-day period, the employee may commence a
13 civil action pursuant to Section 2699.

14 47. On June 24, 2021, Plaintiff provided written notice by online filing to the
15 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
16 Code alleged to have been violated, including facts and theories to support the alleged
17 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
18 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
19 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
20 Plaintiff PAGA Case Number LWDA-CM-835964-21. A true and correct copy of Plaintiff's
21 written notice to the LWDA and Defendants dated June 24, 2021 is attached hereto as
22 "Exhibit 1."

23 48. As of the filing date of this complaint, over 65 days have passed since Plaintiff
24 sent the LWDA Notice described above, and the LWDA has not responded that it intends to
25 investigate Plaintiff's claims, and Defendants have not cured the violations.

26 49. Thus, Plaintiff has satisfied the administrative prerequisites under California
27 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
28 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a),

1 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

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

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

22 52. As set forth below, Defendants have violated numerous provisions of both the
23 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
24 Order.

25 53. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
26 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
27 private attorney general, seeks assessment and collection of civil penalties for herself, all other
28 non-party Aggrieved Employees, and the State of California against Defendants for violations

of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198 and 2802.

FIRST CAUSE OF ACTION

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

(Against all Defendants)

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

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

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

- (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other non-party Aggrieved Employees with all required overtime pay and failure to properly calculate the overtime rates paid to other non-party Aggrieved Employees, as set forth below;
- (b) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the applicable IWC Wage Order for Defendants’ failure to compensate Plaintiff and other non-party Aggrieved Employees with at least minimum wages for all hours worked, as set forth below;
- (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants’ failure to provide Plaintiff and other non-party Aggrieved Employees with meal periods, as set forth below;

- 1 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
2 applicable IWC Wage Order for Defendants' failure to authorize and
3 permit Plaintiff and other non-party Aggrieved Employees to take rest
4 periods, as set forth below;
- 5 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
6 IWC Wage Order for failure to provide accurate and complete wage
7 statements to Plaintiff and other non-party Aggrieved Employees, as set
8 forth below;
- 9 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
10 IWC Wage Order for failure to maintain payroll records, as set forth
11 below;
- 12 (g) Violation of Labor Code section 204 for failure to pay all earned wages
13 during employment, as set forth below;
- 14 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
15 earned wages upon termination, as set forth below;
- 16 (i) Violation of Labor Code section 1198 and the applicable IWC Wage
17 Order for failing to provide suitable seating to Plaintiff and other
18 non-party Aggrieved Employees, as set forth below; and
- 19 (j) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
20 and other non-party Aggrieved Employees for all business expenses
21 necessarily incurred, as set forth below.

22 **FAILURE TO PAY OVERTIME**

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

24 57. Labor Code section 1198 makes it illegal to employ an employee under
25 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
26 Code section 1198 requires that "... the standard conditions of labor fixed by the commission
27 shall be the ... standard conditions of labor for employees. The employment of any employee
28 ... under conditions of labor prohibited by the order is unlawful."

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

5 59. Specifically, the applicable IWC Wage Order provides that Defendants are and
6 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
7 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
8 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty
9 (40) hours in a workweek.

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

15 61. California Labor Code section 510 codifies the right to overtime compensation
16 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
17 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
18 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
19 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
20 in a day on the seventh (7th) day of work.

21 62. Defendants willfully failed to pay all overtime wages owed to Plaintiff and
22 other non-party Aggrieved Employees. During the relevant time period, Plaintiff and other
23 non-party Aggrieved Employees were not paid overtime premiums for all of the hours they
24 worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in
25 excess of forty (40) hours in a week, because all hours that they worked were not recorded.

26 63. First, during the relevant period, Defendants implemented, on a company-wide
27 basis, an employer-imposed requirement that Plaintiff and other non-party Aggrieved
28 Employees undergo mandatory COVID-19 temperature checks and/or health screenings

1 before clocking in for their scheduled shifts. Prior to each shift, Plaintiff was required to
2 spend up to 5-7 minutes per instance waiting and then undergoing the temperature check and
3 health screening, before being permitted to clock in for her shift. Even though Defendants
4 required these health screenings, Defendants did not provide Plaintiff and other non-party
5 Aggrieved Employees a mechanism to record this time worked so they could be compensated
6 for the time spent undergoing mandatory temperature checks and/or health screenings.

7 64. Second, on information and belief, Defendants had, and continue to have, a
8 company-wide policy staffing their restaurant locations strictly based on the labor hours or
9 labor budget set by the corporate office. Defendants' use of a labor budget resulted in chronic
10 understaffing, such that there were too few employees on duty to handle the heavy workload.
11 Because Defendants failed to provide employees with adequate meal period coverage, other
12 non-party Aggrieved Employees were assigned heavy workloads, which Defendants knew or
13 should have known could only be met by working additional hours. Moreover, Defendants
14 had a practice of failing to schedule meal periods, which further caused other non-party
15 Aggrieved Employees to not be relieved of their duties for compliant meal periods. Also,
16 Defendants' company-wide timekeeping system further prevented other non-party Aggrieved
17 Employees from recording all hours worked when their meal periods were shortened or
18 interrupted, because the system prevented employees from clocking back in from a meal
19 period until 30 minutes elapsed. Thus, Defendants' timekeeping system prevented other non-
20 party Aggrieved Employees from recording all hours worked when meal periods were missed,
21 short, and/or interrupted.

22 65. Third, Defendants had a requirement that a managerial employee be present on
23 the restaurant floor at all times and prohibited managers from leaving the premises unless
24 another manager was also on duty, resulting in a lack of meal period coverage for managerial
25 employees. At the same time, the labor budgets Defendants implemented did not always
26 allow for more than one manager to be on the schedule at all times. As a result, Plaintiff
27 and/or other managerial employees were sometimes the only managers on duty, and were
28 required to supervise the restaurant and respond to customer complaints. Because managerial

1 employees were effectively prohibited from leaving Defendants' premises for meal periods
2 without coverage, and because there were too few employees and other managers on duty to
3 handle the workload and attend to customers, Plaintiff and/or other non-party Aggrieved
4 Employees were denied uninterrupted 30-minute meal periods, and were required to work
5 through and/or to return early from meal periods. Moreover, because Plaintiff and/or other
6 non-party Aggrieved Employees were restricted from leaving the premises during meal
7 periods, Plaintiff and/or other non-party Aggrieved Employees were denied the ability to use
8 meal periods freely for their own purposes, such as running personal errands. Thus,
9 Defendants effectively maintained control over Plaintiff and/or other non-party Aggrieved
10 Employees during meal periods.

11 66. Defendants knew or should have known that, as a result of these company-wide
12 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
13 their assigned duties off-the-clock before their shifts and/or during meal periods, and were
14 suffered or permitted to perform work for which they were not paid. Because Plaintiff and
15 other non-party Aggrieved Employees worked shifts of eight (8) hours a day or more, or forty
16 (40) hours a week or more, some of this off-the-clock work qualified for overtime premium
17 pay.

18 67. Furthermore, Defendants did not pay other non-party Aggrieved Employees the
19 correct overtime rate for the recorded overtime hours that they generated. In addition to an
20 hourly wage, Defendants paid other non-party Aggrieved Employees incentive pay,
21 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
22 California Labor Code, Defendants failed to incorporate all compensation, including but not
23 limited to, all incentive pay, nondiscretionary bonuses, and/or other forms of remuneration,
24 into the calculation of the regular rate of pay for purposes of calculating the overtime wage
25 rate. Therefore, during times when other non-party Aggrieved Employees worked overtime
26 and received these other forms of pay, Defendants failed to pay all overtime wages by paying
27 a lower overtime rate than required.

28 68. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees

1 the balance of overtime compensation as required by California law, violates the provisions of
2 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
3 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
4 558 and/or 2699(a), (f), and (g).

5 **FAILURE TO PAY MINIMUM WAGES**

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

7 69. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
8 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
9 to be paid to employees, and the payment of a wage less than the minimum so fixed is
10 unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 order as “the
11 time during which an employee is subject to the control of an employer, and includes all the
12 time the employee is suffered or permitted to work, whether or not required to do so.” Cal.
13 Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

14 70. First, as set forth above, due to Defendants’ company-wide practice of utilizing
15 labor budgets, assignment of heavy workloads, subsequent lack of meal period coverage, and
16 policy requiring loss prevention employees to be on duty at all times, Plaintiff and other non-
17 party Aggrieved Employees were impeded from taking all uninterrupted meal periods to
18 which they were entitled and were required to work off-the-clock. Moreover, as set forth
19 above, in order to prevent employees from accruing meal period penalties, Defendants’
20 management pressured employees to clock out for meal periods to reflect compliant meal
21 periods, but required them to continue working, time for which they were not paid. Also, as
22 set forth above, Defendants systematically failed to pay Plaintiff and other non-party
23 Aggrieved Employees for actual hours worked during unpaid meal periods, because
24 Defendants’ timekeeping system locked out Plaintiff and other non-party Aggrieved
25 Employees for 30 minutes when they clocked out for a meal period.

26 71. As stated above, due to Defendants’ mandated pre-shift COVID-19 temperature
27 checks and/or health screenings, Plaintiff and other non-party Aggrieved Employees
28 performed work off-the-clock before their scheduled shifts, because Defendants failed to

1 provide Plaintiff and other non-party Aggrieved Employees with any mechanism to record the
2 time they spent completing the mandated health screenings. Additionally, as set forth above,
3 due to Defendants' uniform practices of utilizing labor budgets, understaffing, assignment of
4 heavy workloads, failure to schedule meal periods, subsequent lack of meal period coverage,
5 and requirement that a managerial employee to remain on premises at all times, Plaintiff
6 and/or other non-party Aggrieved Employees were impeded from taking all uninterrupted
7 meal periods to which they were entitled and were required to work off-the-clock. And, as
8 described above, Defendants' timekeeping system did not permit other non-party Aggrieved
9 Employees to clock back in early when their meal periods were interrupted or cut short. Thus,
10 Defendants systematically failed to pay other non-party Aggrieved Employees for actual hours
11 worked during unpaid meal periods because these hours were not always correctly recorded.

12 72. Thus, Defendants did not pay at least minimum wages for all hours worked by
13 Plaintiff and other non-party Aggrieved Employees. To the extent that these off-the-clock
14 hours did not qualify for overtime premium payment, Defendants did not pay at least
15 minimum wages for those hours worked off-the-clock in violation of California Labor Code
16 sections 1182.12, 1194, 1197, and 1198.

17 73. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
18 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
19 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
20 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

21 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

22 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

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

26 75. At all relevant times herein set forth, California Labor Code section 512(a)
27 provides that an employer may not require, cause, or permit an employee to work for a period
28 of more than five (5) hours per day without providing the employee with a meal period of not

1 less than thirty (30) minutes, except that if the total work period per day of the employee is
2 not more than six (6) hours, the meal period may be waived by mutual consent of both the
3 employer and the employee. Under California law, first meal periods must start after no more
4 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

5 76. At all relevant times herein set forth, California Labor Code sections 226.7,
6 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
7 meal period mandated by an applicable order of the IWC.

8 77. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), and
9 1198, and the applicable IWC Wage Order also require employers to provide a second meal
10 period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or
11 to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if
12 the total hours worked is no more than twelve (12) hours, the second meal period may be
13 waived by mutual consent of the employer and the employee only if the first meal period was
14 not waived.

15 78. As stated, Defendants had, and continue to have, company-wide policies and/or
16 practices of understaffing pursuant to their labor budget practices, while simultaneously
17 assigning heavy workloads, and failing to schedule meal periods, which resulted in a lack of
18 meal period coverage and prevented other non-party Aggrieved Employees from taking all
19 timely, uninterrupted meal periods to which they were entitled. As set forth above, in
20 conjunction with understaffing their restaurant locations, Defendants have a requirement that a
21 managerial employee be present on the restaurant premises at all times, but Defendants' labor
22 budgets did not always allow for more than one manager to be on the schedule. As a result,
23 Plaintiff and/or other managerial employees were sometimes the only managers on duty, and
24 would have their meal periods interrupted or would work through them in order to assist their
25 coworkers and customers. Moreover, because Plaintiff and/or other non-party Aggrieved
26 Employees were restricted from leaving the premises during meal periods, Plaintiff and/or
27 other non-party Aggrieved Employees were denied the ability to use meal periods freely for
28 their own purposes, such as running personal errands. Thus, Defendants effectively

1 maintained control over Plaintiff and/or other non-party Aggrieved Employees during meal
2 periods.

3 79. As also stated, Defendants' company-wide timekeeping system prevented other
4 non-party Aggrieved Employees from recording all hours worked when their meal periods
5 were shortened or interrupted, because the system locked out other non-party Aggrieved
6 Employees once they clocked out for a meal period and would not permit them to clock back
7 in from a meal period before 30 minutes elapsed. Moreover, Defendants did not provide other
8 non-party Aggrieved Employees with second 30-minute meal periods on days that they
9 worked in excess of ten (10) hours in one day. Plaintiff and other non-party Aggrieved
10 Employees did not sign valid meal period waivers on days that they were entitled to meal
11 periods and were not relieved of all duties.

12 80. Defendants knew or should have known that as a result of their policies,
13 Plaintiff and/or other non-party Aggrieved Employees were not actually relieved of all duties
14 to take timely, uninterrupted meal periods. Defendants further knew or should have known
15 that they did not pay Plaintiff and/or other non-party Aggrieved Employees meal period
16 premiums when they were missed, late, short, and/or interrupted.

17 81. Furthermore, Defendants engaged in a company-wide practice and/or policy of
18 not paying meal period premiums owed when compliant meal periods were not provided.
19 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
20 have not received premium pay for missed, late, and interrupted meal periods. Alternatively,
21 to the extent that Defendants did pay other non-party Aggrieved Employees meal period
22 premium pay for missed, late, and interrupted meal periods, Defendants did not pay other non-
23 party Aggrieved Employees at the correct rate of pay for premiums because Defendants
24 systematically failed to include all forms of compensation, such as, incentive pay,
25 nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
26 regular rate of pay.

27 82. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
28 Employees compliant meal periods and failed to pay the full meal period premiums due.

Defendants’ conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to California Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS

VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198

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

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

85. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

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

87. During the relevant time period, Defendants regularly failed to authorize and

1 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
2 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
3 Defendants' policies and/or practices of understaffing and assigning heavy workloads
4 prevented Plaintiff and other non-party Aggrieved Employees from being relieved of all duty
5 in order to take compliant rest periods. Defendants also failed to schedule rest periods, which,
6 coupled with Defendants' failure to provide adequate rest period coverage, further led to
7 Plaintiff and other non-party Aggrieved Employees not being authorized and permitted to take
8 rest periods.

9 88. Furthermore, Defendants maintained and implemented a company-wide
10 practice and/or policy requiring that Plaintiff and other non-party Aggrieved Employees
11 remain on the work premises during their rest periods. Because Plaintiff and other non-party
12 Aggrieved Employees were restricted from leaving the work premises during rest periods,
13 they were denied the ability to use their rest periods freely for their own purposes, such as
14 running personal errands. Thus, Defendants effectively maintained control over Plaintiff and
15 other non-party Aggrieved Employees during rest periods, and, as a result of this rest period
16 policy, Defendants did not relinquish control over Plaintiff and other non-party Aggrieved
17 Employees during rest periods.

18 89. As a result of Defendants' practices and policies, Plaintiff and other non-party
19 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
20 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
21 were entitled. For example, Plaintiff's rest periods were interrupted or cut short 3-5 times per
22 week in order to assist her coworkers with customers.

23 90. Defendants also have engaged in a company-wide practice and/or policy of not
24 paying all rest period premiums owed when compliant rest periods are not authorized or
25 permitted. Thus, because of this practice and/or policy, Plaintiff and other non-party
26 Aggrieved Employees have not received premium pay for all missed rest periods.
27 Alternatively, to the extent that Defendants did pay other non-party Aggrieved Employees one
28 (1) additional hour of premium pay for missed rest periods, Defendants did not pay other non-

1 party Aggrieved Employees at the correct rate of pay for premiums because Defendants failed
2 to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or
3 other forms of remuneration, in the regular rate of pay.

4 91. Defendants' conduct violates the applicable IWC Wage Order and California
5 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
6 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
7 558 and/or 2699(a), (f), and (g).

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

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

15 93. During the relevant time period, Defendants have knowingly and intentionally
16 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
17 inaccurate wage statements. For example, Defendants issued uniform wage statements to
18 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
19 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
20 the pay period, including rates of pay for overtime wages and/or meal and rest period
21 premiums, and the corresponding number of hours worked at each hourly rate. Specifically,
22 Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

23 94. Because Defendants did not record the time Plaintiff and other non-party
24 Aggrieved Employees spent working off-the-clock, Defendants did not list the correct amount
25 of gross wages and net wages earned by Plaintiff and other non-party Aggrieved Employees,
26 in compliance with section 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to
27 accurately list the total number of hours worked by Plaintiff and other non-party Aggrieved
28 Employees in violation of section 226(a)(2), and failed to list the applicable hourly rates of

1 pay in effect during the pay period and the corresponding accurate number of hours worked at
2 each hourly rate, in violation of section 226(a)(9).

3 95. In addition, because Defendants did not calculate other non-party Aggrieved
4 Employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal
5 and rest period premiums, Defendants did not list the correct amount of gross wages in
6 compliance with section 226(a)(1) and did not list the correct amount of net wages in violation
7 of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in
8 effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and
9 rest period premiums, in violation of section 226(a)(9).

10 96. The wage statement deficiencies also include, without limitation, failing to list
11 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
12 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
13 for which aggrieved employees were paid; failing to list the name of the employee and only
14 the last four digits of his or her social security number or an employee identification number
15 other than a social security number; failing to list the name and address of the legal entity that
16 is the employer; and/or failing to state all hours worked as a result of not recording or stating
17 hours worked off-the-clock.

18 97. California Labor Code section 1174(d) provides that "[e]very person employing
19 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
20 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
21 plants or establishments at which employees are employed, payroll records showing the hours
22 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
23 applicable piece rate paid to, employees employed at the respective plants or
24 establishments. . . ." At all relevant times, and in violation of Labor Code section 1174(d),
25 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-
26 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto
27 as a result of failing to record the off-the-clock hours that they worked.

28 98. California Labor Code section 1198 provides that the maximum hours of work

1 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
2 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
3 employment of any employees for longer hours than those fixed by the order or under
4 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
5 Wage Order, employers are required to keep accurate time records showing when the
6 employee begins and ends each work period and meal period. During the relevant time
7 period, Defendants engaged in company-wide practices and/or policies of failing to record
8 actual hours worked and thereby failed to keep accurate records of work period and meal
9 period start and end times for Plaintiff and other non-party Aggrieved Employees in violation
10 of section 1198. Furthermore, in light of Defendants’ failure to provide other non-party
11 Aggrieved Employees with second 30-minute meal periods to which they were entitled,
12 Defendants kept no records of meal start and end times for second meal periods.

13 99. Defendants’ conduct violates California Labor Code sections 226(a), 1174(d),
14 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
15 civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

16 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

17 **VIOLATION OF LABOR CODE SECTION 204**

18 100. At all relevant times herein set forth, California Labor Code section 204
19 requires that all wages earned by any person in any employment between the 1st and the 15th
20 days, inclusive, of any calendar month, other than those wages due upon termination of an
21 employee, are due and payable between the 16th and the 26th day of the month during which
22 the labor was performed. Labor Code section 204 further provides that all wages earned by
23 any person in any employment between the 16th and the last day, inclusive, of any calendar
24 month, other than those wages due upon termination of an employee, are due and payable
25 between the 1st and the 10th day of the following month.

26 101. At all relevant times herein, California Labor Code section 204 also requires
27 that all wages earned for labor in excess of the normal work period shall be paid no later than
28 the payday for the next regular payroll period. Alternatively, at all relevant times herein,

1 Labor Code section 204 provides that the requirements of this section are deemed satisfied by
2 the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not
3 more than seven (7) calendar days following the close of the payroll period.

4 102. During the relevant time period, Defendants willfully failed to pay Plaintiff and
5 other non-party Aggrieved Employees all wages due to them within any time period specified
6 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
7 wages, and/or meal and rest period premiums, within the time periods specified by California
8 Labor Code section 204.

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

11 **FAILURE TO PAY WAGES UPON TERMINATION**

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

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

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

25 106. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
26 who are no longer employed by Defendants their wages earned and unpaid at the time of
27 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates
28 California Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved

1 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
2 256 and/or 2699(a), (f), and (g).

3 **FAILURE TO PROVIDE SUITABLE SEATING**
4 **VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF**
5 **REGULATIONS, TITLE 8, SECTION 11050 SUBDIVISION 14(B)**

6 107. At all relevant times herein, California Labor Code section 1198 makes it
7 illegal to employ an employee under conditions of labor that are prohibited by the applicable
8 IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard
9 conditions of labor fixed by the commission shall be the . . . standard conditions of labor for
10 employees. The employment of any employee . . . under conditions of labor prohibited by the
11 order is unlawful.”

12 108. California Code of Regulations, Title 8, section 11050 subdivision 14(B)
13 provides that “[w]hen employees are not engaged in the active duties of their employment and
14 the nature of the work requires standing, an adequate number of suitable seats shall be placed
15 in reasonable proximity to the work area and employees shall be permitted to use such seats
16 when it does not interfere with the performance of their duties.”

17 109. During the relevant time period, Defendants violated California Labor Code
18 section 1198 and California Code of Regulations, Title 8, section 11050(14)(B), because
19 Plaintiff and other non-party Aggrieved Employees were not allowed to sit, even during lulls
20 in their work duties, nor were they provided with suitable seats in reasonable proximity to
21 their work areas.

22 110. Plaintiff alleges that Defendants’ California restaurants are generally similar in
23 their layout and design and there was, and continues to be, space near their work areas (with
24 reasonable or no modification to these work areas) to allow for the presence and use of a seat
25 or stool by Plaintiff and other non-party Aggrieved Employees during lulls in operation.
26 Defendants could have provided Plaintiff and other non-party Aggrieved Employees with a
27 seat or stool in their work areas, but instead denied Plaintiff and other non-party Aggrieved
28 Employees suitable seating altogether and effectively forced Plaintiff and other non-party

1 Aggrieved Employees to stand throughout the day.

2 111. Defendants did not provide Plaintiff and other non-party Aggrieved Employees
3 with seats or stools in reasonable proximity to their work areas to allow them to use seats
4 when it would not interfere with the performance of their duties for times when they were not
5 engaged in active duties that require standing. In other words, to the extent Plaintiff and other
6 non-party Aggrieved Employees engaged in duties in which the nature of the work required
7 standing, Defendants denied them the use of seats nearby during lulls in their work duties.
8 Moreover, Defendants did not inform Plaintiff and other non-party Aggrieved Employees of
9 their rights to a seat or stool under California law.

10 112. As a result of Defendants' company-wide policy and/or practice of prohibiting
11 employees from sitting at any time, even when they were not engaged in active duties
12 requiring standing, and company-wide failure to provide seats in reasonable proximity to their
13 work areas, Plaintiff and other non-party Aggrieved Employees were forced to stand during
14 shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other
15 non-party Aggrieved Employees violated and continues to violate California Labor Code
16 section 1198 and IWC Wage Order No. 5-2001, subdivision 14(B).

17 113. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
18 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

19 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

20 **VIOLATION OF LABOR CODE SECTION 2802**

21 114. At all times herein set forth, California Labor Code section 2802 provides that
22 an employer must reimburse employees for all necessary expenditures and losses incurred by
23 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
24 to prevent employers from passing off their cost of doing business and operating expenses on
25 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
26 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: "[w]hen the
27 employer requires the use of tools or equipment or they are necessary to the performance of a
28 job, such tools and equipment shall be provided and maintained by the employer, except that

1 an employee whose wages are at least two (2) times the minimum wage may provide and
2 maintain hand tools and equipment customarily required by the particular trade or craft.”

3 115. During the relevant time period, Defendants required Plaintiff and other non-
4 party Aggrieved Employees to wear uniforms bearing the Jack in the Box logo, including
5 uniform shirts and/or hats. However, Defendants did not provide their employees with
6 sufficient uniforms to wear for their shifts throughout the week. For example, Defendants
7 only provided Plaintiff and other non-party Aggrieved Employees with three (3) uniform
8 shirts and two (2) hats during their employment. Because Defendants failed to provide
9 Plaintiff and other non-party Aggrieved Employees with an adequate number of uniform items
10 in relation to their scheduled shifts and for the tasks they were required to perform, Plaintiff
11 and other non-party Aggrieved Employees were forced to wash their uniforms more
12 frequently than they otherwise do laundry, and incur expenses in doing so. Thus, Defendants
13 failed to maintain uniforms they required Plaintiff and other non-party Aggrieved Employees
14 to wear during their shifts and forced them to incur the cost of maintaining employee
15 uniforms.

16 116. Defendants could have provided Plaintiff and other non-party Aggrieved
17 Employees with the actual equipment for use on the job, such as an adequate number of
18 uniforms or access to laundering services, or, Defendants could have reimbursed employees
19 for the costs of their laundering expenses or provided a uniform maintenance allowance.
20 Instead, Defendants passed these operating costs off onto Plaintiff and other non-party
21 Aggrieved Employees. At all relevant times, Plaintiff did not earn at least two (2) times the
22 minimum wage.

23 117. Defendants’ company-wide policy and/or practice of passing on their operating
24 costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code
25 section 2802. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
26 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

27 **REQUEST FOR JURY TRIAL**

28 Plaintiff requests a trial by jury.

1 **PRAYER FOR RELIEF**

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

4 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
5 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

6 **As to the First Cause of Action**

7 2. That the Court declare, adjudge and decree that Defendants violated the
8 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
9 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
10 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516,
11 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
12 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
13 statements and maintain accurate payroll records); 201 and 202 (by failing timely to pay all
14 earned wages upon termination); 204 (by failing timely to pay all earned wages during
15 employment); 1198 and the applicable IWC Wage Order (by failing to provide suitable
16 seating); and 2802 (by failing to reimburse business expenses);

17 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
18 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202,
19 203, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

20 4. For attorneys' fees and costs pursuant to California Labor Code section
21 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
22 Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12,
23 1194, 1197, 1198, and 2802.

24 5. For pre-judgment and post-judgment interest as provided by law; and

25 //

26 //

27 //

28 //

1 6. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: August 30, 2021

Respectfully submitted,

Capstone Law APC

5
6
7 By:

 
Mark A. Ozzello
Brandon K. Brouillette
Joseph Hakakian

Attorneys for Plaintiff Maura Gamero

EXHIBIT 1

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

June 24, 2021

VIA ONLINE SUBMISSION

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

Subject: *Maura Gamero v. JIB Holdings I, LLC, et al.*

Dear PAGA Administrator:

This office represents Maura Gamero in connection with her claims under the California Labor Code. Ms. Gamero was an employee of JIB HOLDINGS I, LLC; ENVISION FOODS, LLC; DESERT JACK, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; ENV MANAGEMENT, LLC; and/or TNH PARTNERS, LLC. For the purpose of this letter, Ms. Gamero collectively refers to these entities as “JIB.”

The employers may be contacted directly at the addresses below:

JIB HOLDINGS I, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

ENVISION FOODS, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

DESERT JACK, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

ALLIED RESTAURANT MANAGEMENT, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

ENV MANAGEMENT, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

TNH PARTNERS, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

Ms. Gamero intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Gamero seeks relief on behalf of herself, the State of California, and other persons who are or were employed by JIB in California as a non-exempt, hourly paid employee and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

JIB employed Ms. Gamero as a non-exempt, hourly paid Team Leader from approximately August 4, 2020 to September 2020. Ms. Gamero worked for JIB at its Jack in the Box restaurant located at 15536 Highway 14, Mojave, California 93501. She typically worked six (6) to eight (8) hours or more per day and five (5) days per week. Ms. Gamero was compensated approximately \$14.50 per hour. Her job duties included operating the cash register, cooking and preparing food, providing customer service, and cleaning her station.

JIB has committed one or more of the following Labor Code violations against Ms. Gamero, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

JIB’s Company-Wide and Uniform Payroll and HR Practices

JIB HOLDINGS I, LLC; ENVISION FOODS, LLC; DESERT JACK, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC are California limited liability companies. Upon information and belief, JIB operates approximately 120 Jack in the Box franchise restaurant locations in three states, including at least 50 restaurant locations in California. Upon information and belief, JIB maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Victorville, California, for all non-exempt, hourly paid employees working for JIB in California, including Ms. Gamero and other aggrieved employees. At all relevant times, JIB issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Gamero and other aggrieved employees, regardless of their location or position.

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

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required

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

to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

JIB willfully failed to pay all overtime wages owed to Ms. Gamero and other aggrieved employees. During the relevant time period, Ms. Gamero and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, JIB implemented, on a company-wide basis, an employer-imposed requirement that Ms. Gamero and other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to each shift, Ms. Gamero was required to spend up to 5-7 minutes per instance waiting and then undergoing the temperature check and health screening, before being permitted to clock in for her shift. Even though JIB required these health screenings, JIB did not provide Ms. Gamero and other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Second, on information and belief, JIB had, and continues to have, a company-wide policy staffing its restaurant locations strictly based on the labor hours or labor budget set by the corporate office. JIB's use of a labor budget resulted in chronic understaffing, such that there were too few employees on duty to handle the heavy workload. Because JIB failed to provide employees with adequate meal period coverage, other aggrieved employees were assigned heavy workloads, which JIB knew or should have known could only be met by working additional hours. Moreover, JIB had a practice of failing to schedule meal periods, which further caused other aggrieved employees to not be relieved of their duties for compliant meal periods. Also, JIB's company-wide timekeeping system further prevented other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system prevented employees from clocking back in from a meal period until 30 minutes elapsed. Thus, JIB's timekeeping system prevented other aggrieved employees from recording all hours worked when meal periods were missed, short, and/or interrupted.

Third, JIB had a requirement that a managerial employee be present on the restaurant floor at all times and prohibited managers from leaving the premises unless another manager was also on duty, resulting in a lack of meal period coverage for managerial employees. At the same time, the labor budgets JIB implemented did not always allow for more than one manager to be on the schedule at all times. As a result, Ms. Gamero and/or other managerial employees were sometimes the only managers on duty, and were required to supervise the restaurant and respond to customer complaints. Because managerial employees were effectively prohibited from leaving JIB's premises for meal periods without coverage, and because there were too few employees and other managers on duty to handle the workload and attend to customers, Ms. Gamero and/or other aggrieved employees were denied uninterrupted 30-minute meal periods, and were required to work through and/or to return early from meal periods. Moreover, because Ms. Gamero and/or other aggrieved employees were restricted from leaving the premises during meal periods, Ms. Gamero and/or other aggrieved employees were denied the ability to use meal periods freely for their own purposes, such as running personal errands. Thus, JIB effectively maintained control over Ms. Gamero and/or other aggrieved employees during meal periods.

JIB knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Gamero and other aggrieved employees were performing their assigned duties off-the-clock before their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Gamero and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, JIB did not pay other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, JIB paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, JIB failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, JIB failed to pay all overtime wages by paying a lower overtime rate than required.

JIB's failure to pay Ms. Gamero and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Gamero and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As stated above, due to JIB's mandated pre-shift COVID-19 temperature checks and/or health screenings, Ms. Gamero and other aggrieved employees performed work off-the-clock before their scheduled shifts, because JIB failed to provide Ms. Gamero and other aggrieved employees with any mechanism to record the time they spent completing the mandated health screenings. Additionally, as set forth above, due to JIB's uniform practices of utilizing labor budgets, understaffing, assignment of heavy workloads, failure to schedule meal periods, subsequent lack of meal period coverage, and requirement that a managerial employee to remain on premises at all times, Ms. Gamero and/or other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. And, as described above, JIB's timekeeping system did not permit other aggrieved employees to clock back in early when their meal periods were interrupted or cut short. Thus, JIB systematically failed to pay other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, JIB did not pay minimum wages for all hours worked by Ms. Gamero and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium

payment, JIB did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, JIB regularly failed to pay at least minimum wages to Ms. Gamero and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Gamero and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated, JIB had, and continues to have, company-wide policies and/or practices of understaffing pursuant to its labor budget practices, while simultaneously assigning heavy workloads, and failing to schedule meal periods, which resulted in a lack of meal period coverage and prevented other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As set forth above, in conjunction with understaffing its restaurant locations, JIB has a requirement that a managerial employee be present on the restaurant premises at all times, but JIB's labor budgets did not always allow for more than one manager to be on the schedule. As a result, Ms. Gamero and/or other managerial employees were sometimes the only managers on duty, and would have their meal periods interrupted or would work through them in order to assist their coworkers and customers. Moreover, because Ms. Gamero and/or other aggrieved employees were restricted from leaving the premises during meal periods, Ms. Gamero and/or other aggrieved employees were denied the ability to use meal periods freely for their own purposes, such as running personal errands. Thus, JIB effectively maintained control over Ms. Gamero and/or other aggrieved employees during meal periods.

As also stated, JIB's company-wide timekeeping system prevented other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out other aggrieved employees once they clocked out for a meal period and would not permit them to clock back in from a meal period before 30 minutes elapsed. Moreover, JIB did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Gamero and other aggrieved employees did not sign valid

meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times mentioned herein, JIB knew or should have known that as a result of its policies, Ms. Gamero and/or other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. JIB further knew or should have known that it did not pay Ms. Gamero and/or other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Furthermore, JIB engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Gamero and/or other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that JIB did pay other aggrieved employees for missed, late, and interrupted meal periods, JIB did not pay other aggrieved employees at the correct rate of pay for premiums because JIB systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, JIB failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Gamero and/or other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, JIB regularly failed to authorize and permit Ms. Gamero and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, JIB's policies and/or practices of understaffing and assigning heavy workloads prevented Ms. Gamero and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. JIB also failed to schedule rest periods,

which, coupled with JIB's failure to provide adequate rest period coverage, further led to Ms. Gamero and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, JIB maintained and implemented a company-wide practice and/or policy requiring that Ms. Gamero and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Gamero and other aggrieved employees were restricted from leaving the work premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, JIB effectively maintained control over Ms. Gamero and other aggrieved employees during rest periods, and, as a result of this rest period policy, JIB did not relinquish control over Ms. Gamero and other aggrieved employees during rest periods.

As a result of JIB's practices and policies, Ms. Gamero and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Gamero's rest periods were interrupted or cut short 3-5 times per week in order to assist her coworkers with customers.

JIB also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized or permitted. Because of this practice and/or policy, Ms. Gamero and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that JIB did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, JIB did not pay other aggrieved employees at the correct rate of pay for premiums because JIB failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, JIB failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Gamero and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

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

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. JIB has not provided Ms. Gamero and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, JIB has knowingly and intentionally provided Ms. Gamero and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, JIB issued uniform wage statements to Ms. Gamero and other aggrieved employees that fail to correctly

list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, JIB violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

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

Furthermore, because JIB did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, JIB did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). JIB also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), JIB willfully failed to maintain accurate payroll records for Ms. Gamero and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, as stated, JIB engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Gamero and other aggrieved employees in violation of section 1198. Furthermore, in light of JIB’s failure to provide other aggrieved employees with second 30-minute

meal periods to which they were entitled, JIB kept no records of meal start and end times for second meal periods.

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

Ms. Gamero and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, JIB failed to pay Ms. Gamero and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within any time period specified by California Labor Code section 204.

Ms. Gamero and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

JIB willfully failed to pay Ms. Gamero and other aggrieved employees who are no longer employed by JIB all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving JIB's employ.

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

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11050(14)(B) provides that “[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.”

The IWC states that subdivision 14(B) applies during “lulls in operation” when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during “lulls in operation.” *Id.*

JIB's California restaurant locations are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Ms. Gamero and other aggrieved employees during lulls in operation. JIB could provide Ms. Gamero and other aggrieved employees with a seat or stool in its work areas, but instead denies employees seating and forces Ms. Gamero and other aggrieved employees to stand throughout the day.

JIB did not provide Ms. Gamero and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Ms. Gamero and other aggrieved employees engaged in duties in which the nature of the work required standing, JIB denied them the use of seats nearby during lulls in their work duties. Moreover, JIB did not inform Ms. Gamero and other aggrieved employees of their rights to a seat or stool under California law.

As a result of JIB's company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Ms. Gamero and other aggrieved employees were forced to stand during shifts and denied seats. JIB's failure to provide suitable seating to Ms. Gamero and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(B).

Ms. Gamero and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring JIB into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, JIB required Ms. Gamero and other aggrieved employees to wear uniforms bearing the Jack in the Box logo, including uniform shirts and/or hats. However, JIB did not provide their employees with sufficient uniforms to wear for their shifts throughout the week. For example, JIB only provided Ms. Gamero and other aggrieved employees with three (3) uniform shirts and two (2) hats during their employment. Because JIB failed to provide Ms. Gamero and other aggrieved employees with an adequate number of uniform items in relation to their scheduled shifts and for the tasks they were required to perform, Ms. Gamero and other aggrieved employees were forced to wash their uniforms more frequently than they otherwise do laundry, and incur expenses in doing so. Thus, JIB failed to maintain uniforms they required Ms. Gamero and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

JIB could have provided Ms. Gamero and other aggrieved employees with the actual equipment for use on the job, such as an adequate number of uniforms or access to laundering services, or, JIB could have reimbursed employees for the costs of their laundering expenses or provided a uniform maintenance allowance. Instead, JIB passed these operating costs off onto Ms. Gamero and other aggrieved employees. At all relevant times, Ms. Gamero did not earn at least two (2) times the minimum wage.

Thus, JIB had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Gamero and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” JIB, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Gamero’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Gamero seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Gamero, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against JIB for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Gamero seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Gamero's reasonable attempt to settle her dispute with JIB prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform JIB of Ms. Gamero's aforementioned grievances and the proposed remedies as detailed below, while affording JIB a reasonable opportunity to satisfy Ms. Gamero's demands.

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

1. JIB shall pay Ms. Gamero and all other aggrieved employees employed by JIB at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. JIB shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, and provided lawful meal and rest periods.
3. JIB shall conduct a survey or interview all current and former aggrieved employees in California who worked for JIB in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for uniform laundering expenses or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. JIB shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. JIB also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. JIB shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for JIB's benefit, including, but not limited to, uniform laundering expenses or other expenditures, as required by Labor Code section 2802.

6. JIB shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. JIB shall provide Ms. Gamero and all aggrieved employees employed by JIB at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. JIB shall implement and provide suitable seating to all aggrieved employees.
9. JIB shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
10. JIB shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 5-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Anthony Castillo

Copy: JIB HOLDINGS I, LLC (via U.S. Certified Mail); ENVISION FOODS, LLC (via U.S. Certified Mail); DESERT JACK, LLC (via U.S. Certified Mail); ALLIED RESTAURANT MANAGEMENT, LLC (via U.S. Certified Mail); ENV MANAGEMENT, LLC (via U.S. Certified Mail); TNH PARTNERS, LLC (via U.S. Certified Mail)