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Attorneys for Plaintiff MILIPZA ANDRADE HERNANDEZ in a Representative capacity only,
and on behalf of other members of the general public similarly situated,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SONOMA

MILIPZA ANDRADE HERNANDEZ, in a
Representative capacity only, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

v.

GNIMGT, Inc., a California Corporation;
GOOD-NITE INN, INC., a California
Corporation; GOOD NITE INN
MANAGEMENT, INC., a California
Corporation; GOOD NITE INN BUENA
PARK, INC., a California Corporation;
GOOD NITE INN CALABASAS, INC., a
California Corporation; GOOD NITE INN
CHULA VISTA, INC., a California
Corporation; GOOD NITE INN FREMONT,
INC., a California Corporation; GOOD

CASE NO. SCV-269254

COMPLAINT FOR:

- 1. MEAL AND REST PERIOD VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.***
- 2. MINIMUM WAGE VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.***
- 3. OVERTIME VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.***
- 4. WAGE STATEMENT VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.***
- 5. FAILURE TO REIMBURSE PURSUANT TO LABOR CODE § 2698 *et seq.***

1 NITE INN REDLANDS, INC., a California
2 Corporation; GOOD NITE INN
3 REDWOOD, INC., a California
4 Corporation; GOOD NITE INN
5 ROHNERT PARK, INC., a California
6 Corporation; GOOD NITE INN
7 SACRAMENTO, INC., a California
8 Corporation; GOOD NITE INN SALINAS,
9 INC., a California Corporation; GOOD
10 NITE INN SAN DIEGO, INC., a California
11 Corporation; GOOD NITE INN SYLMAR,
12 INC., a California Corporation;
13 CAMARILLO GOOD NITE INN
14 PARTNERS, a California Limited
15 Partnership; GOOD-NITE INN
16 INVESTMENT SANTA ANA Limited
17 Partnership; GOOD NITE INN ORANGE
18 PARTNERS, a California Limited
19 Partnership; GOOD NITE SEA WORLD
20 PARTNERS, L.P.; PHILIP HO, an
21 Individual; NICHOLAS HO, an Individual
22 and DOES 1-10, inclusive.

23 Defendants.

6. **FAILURE TO PAY WAGES UPON
SEPARATION PURSUANT TO
LABOR CODE § 2698 *et seq.***

Demand for Jury Trial

24 COMES NOW Plaintiff MILIPZA ANDRADE HERNANDEZ (“Plaintiff” or “Hernandez”),
25 in a Representative capacity only, on behalf of all aggrieved employees, and alleges for her complaint
26 as follows:

27 **PARTIES, JURISDICTION, AND VENUE**

28 1. This Court has jurisdiction over this matter in that all parties are residents of, or do business
within, the State of California and the amount in controversy exceeds the statutory minimum
limit of this Court. The monetary damages and restitution sought by Plaintiff exceed the
minimal jurisdiction limits of the Superior Court and will be established according to proof at
trial. Furthermore, there is no federal question at issue as Wage and Hour protections and
remedies related thereto are based solely on California Law and Statutes, including the Labor
Code, Civil Code, and IWC Wage Order(s). Also, the Ninth Circuit has recently held that, for

1 purposes of establishing federal diversity jurisdiction, penalties pursuant to the Private
2 Attorneys General Act of 2004 (“PAGA”) may **not** be aggregated. *Urbino v. Orkin Servs. of*
3 *California, Inc.*, 726 F.3d 1118, 1122 (9th Cir. 2013).

4 2. Venue before this Court is proper in that certain wrongful acts which gave rise to Plaintiff’s
5 injuries occurred in the County of Sonoma, State of California.

6 3. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned
7 herein, Defendant GNIMGT, Inc. was and is a California Corporation doing business
8 throughout the state, including the County of Sonoma, State of California. Defendant GOOD-
9 NITE INN, INC. was and is a California Corporation doing business throughout the state,
10 including the County of Sonoma, State of California. Defendant GOOD NITE INN
11 MANAGEMENT, INC. was and is a California Corporation doing business throughout the
12 state, including the County of Sonoma, State of California. Defendant GOOD NITE INN
13 BUENA PARK, INC. was and is a California Corporation doing business throughout the state.
14 Defendant GOOD NITE INN CALABASAS, INC. was and is a California Corporation doing
15 business throughout the state. Defendant GOOD NITE INN CHULA VISTA, INC. was and
16 is a California Corporation doing business throughout the state. Defendant GOOD NITE INN
17 FREMONT, INC. was and is a California Corporation doing business throughout the state.
18 Defendant GOOD NITE INN REDLANDS, INC. was and is a California Corporation doing
19 business throughout the state. Defendant GOOD NITE INN REDWOOD, INC. was and
20 is a California Corporation doing business throughout the state. Defendant GOOD NITE INN
21 ROHNERT PARK, INC. was and is a California Corporation doing business throughout the
22 state, including the County of Sonoma, State of California. Defendant GOOD NITE INN
23 SACRAMENTO, INC. was and is a California Corporation doing business throughout the
24 state, State of California. Defendant GOOD NITE INN SALINAS, INC. was and is a
25 California Corporation doing business throughout the state. GOOD NITE INN SAN DIEGO,
26 INC. was and is a California Corporation doing business throughout the state. Defendant
27 GOOD NITE INN SYLMAR, INC. was and is a California Corporation doing business
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1 throughout the state. Defendant CAMARILLO GOOD NITE INN PARTNERS was and is a
2 California Limited Partnership doing business throughout the state. Defendant GOOD-NITE
3 INN INVESTMENT SANTA ANA was and is a California Limited Partnership doing business
4 throughout the state, Defendant GOOD NITE INN ORANGE PARTNERS was and is a
5 California Limited Partnership doing business throughout the state. Defendant GOOD NITE
6 SEA WORLD PARTNERS was and is a California Limited Partnership doing business
7 throughout the state. Defendant PHILIP HO is an individual doing business throughout the
8 state, including the County of Sonoma, State of California. Defendant NICHOLAS HO is an
9 individual doing business throughout the state, including the County of Sonoma, State of
10 California. (These individuals and entities are collectively referred to herein as “Defendants”
11 or “Good Nite Inn”).

12 4. While there are several different corporate entities and limited partnerships, each holds itself
13 out as part of one chain of “Good Nite Inn” hotels with standard policies and practices, as
14 detailed below. The Good Nite Inn has various locations that are currently operating
15 throughout California. Sixteen of the Eighteen named “Good Nite Inn” Defendants share the
16 same entity address located at 11500 W. Olympic Blvd, Ste 345, Los Angeles, California.
17 Each Good Nite Inn entity has represented that either Philip Ho or Nicholas Ho are president
18 and/or have a managing interest, pursuant to California’s Secretary of State filings. Each of
19 these individuals and corporate entities who make up Good Nite Inn are acting as Plaintiff’s,
20 and all other employees’, co-employers for purposes of California law.

21 5. Plaintiff is presently unaware of the true names, capacities and liability of defendants named
22 herein as DOES 1 through 10, inclusive. Accordingly, Plaintiff will seek leave of court to
23 amend this complaint to allege their true names and capacities after the same have been
24 ascertained.

25 6. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named
26 Defendants is responsible in some manner for the wrongs and damages as herein alleged, and
27 in so acting was functioning as the agent, servant, partner, and employee of the co-Defendants,
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1 and in doing the actions mentioned below, was acting within the course and scope of his or her
2 authority as such agent, servant, partner, and employee with the permission and consent of the
3 co-Defendants. Plaintiff's injuries as herein alleged were proximately caused by said
4 Defendants. Wherever it is alleged herein that any act or omission was done or committed by
5 any specially named Defendant or Defendants, Plaintiff intends thereby to allege and does
6 allege that the same act or omission was also done and committed by each and every Defendant
7 named as a DOE, both separately and in concert with the named Defendant or Defendants.

- 8 7. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
9 including DOES 1 through 10, are and at all times herein mentioned were either individuals,
10 sole proprietorships, partnerships, registered professionals, corporations, alter egos or other
11 legal entities which were licensed to do and/or were doing business in the County of Sonoma,
12 State of California at all times relevant to the subject matter of this action.

13 **FACTUAL BACKGROUND**

- 14 8. In or about October of 2019, Plaintiff Hernandez commenced working for Defendants as a
15 non-exempt employee. Plaintiff's employment with Defendants was terminated by Defendants
16 in February, 2021. Throughout her employment with Defendants, Plaintiff performed her job
17 in a capable and competent manner and was commended for doing so.
- 18 9. Throughout the term of her employment, Plaintiff and all other aggrieved employees were, and
19 currently are, denied the benefits and protections of the Labor Code due to Defendants'
20 institutionalized pay practices, standard as to all of Defendants' California-based employees.
- 21 10. On July 1, 2021, counsel for Plaintiff prepared and electronically submitted a letter to the
22 California Labor & Workforce Development Agency ("LWDA") via the California Department
23 of Industrial Relations' "PAGA Filing" website. A copy of the letter was mailed to the
24 Defendants via USPS Certified Mail. The letter contained the specific provisions of the
25 California Labor Code violated by Defendants, as well as the facts and theories in support of
26 Plaintiff's claims. (Please see **Exhibit 1**, a true and correct copy of this letter and automated
27 return receipt from the LWDA.)
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- 1 11. The statutory time period for the LWDA to investigate and/or respond, and for the employers
2 to respond, has concluded.

3 **REPRESENTATIVE ALLEGATIONS**

- 4 12. As more specifically set forth below, Plaintiff brings this action in a representative capacity on
5 behalf of all current and former aggrieved employees of Defendants. Code Civ. Proc. § 2699;
6 *Arias v. Superior Court* (2009) 46 Cal. 4th 969, 980-981. Throughout the operative limitations
7 period, Plaintiff and all other aggrieved employees were denied the protections and benefits
8 of the Labor Code due to Defendants' standard practices. Throughout their employment,
9 Plaintiff and all other aggrieved employees were and are denied full and accurate
10 compensation, including overtime compensation, in violation of, *inter alia*, Labor Code
11 sections 510, 1194, and 1197. Plaintiff and the other aggrieved employees were and are denied
12 Meal and Rest Periods and Meal and Rest Period payments, in violation of, *inter alia*, Labor
13 Code sections 226.7 and 512. Defendants failed to furnish accurate itemized wage statements
14 in violation of, *inter alia*, Labor Code section 226. Defendants failed to reimburse Plaintiff
15 and other aggrieved employees for necessary business expenditures in violation of, *inter alia*,
16 Labor Code section 2802. Defendants failed to provide all compensation due at termination
17 of employment in violation of, *inter alia*, Labor Code sections 201 through 203.

- 18 13. Plaintiff brings this action on the grounds that she and other current and former aggrieved
19 employees of Defendants were and are improperly denied the mandated wages resulting from
20 the above-referenced violations. Code Civ. Proc. § 2699; *Arias*, 46 Cal. 4th at 980-981. The
21 number of current and former aggrieved employees is believed to exceed Two Hundred and
22 Fifty (250) members.

- 23 14. The approximately Two Hundred and Fifty (250) employees are comprised of Defendants'
24 current or former California-based non-exempt employees.

- 25 15. The questions of law and fact common to all aggrieved employees arising from Defendants'
26 actions include, among others, the following:

- 27 a. Whether Defendants failed to pay its employees the proper straight-time, overtime, and
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- 1 double time wages due and owing to them;
- 2 b. Whether Defendants failed to pay its employees all compensation due and owing at
- 3 termination of employment;
- 4 c. Whether Defendants failed to provide its employees with statutorily-compliant Meal
- 5 and/or Rest Periods, in violation of, *inter alia*, California Labor Code section 512 and
- 6 226.7, in that Defendants' written policies are not compliant with California law, and
- 7 Defendants do not allow its employees duty-free breaks on occasion;
- 8 d. Whether Defendants failed to properly provide Meal and Rest Period Premiums in
- 9 accordance with law;
- 10 e. Whether Defendants failed to properly calculate and pay its employees overtime
- 11 compensation or Meal and Rest Period Premiums in accordance with law by failing to
- 12 properly calculate, into the Regular Rate of Pay, the value of all employee benefits and
- 13 other non-discretionary compensation; and
- 14 f. Whether Defendants failed to properly reimburse its employees for necessary business
- 15 expenditures for, *inter alia*, cell phone costs and other work supplies, in violation of
- 16 Labor Code section 2802.
- 17 16. At all times mentioned herein, Defendants were subject to the Labor Codes and Industrial
- 18 Welfare Commission Wage Orders of the State of California, including, but not limited to,
- 19 California Labor Code section 2698 *et seq.*
- 20 17. At all times mentioned herein, Defendants are and were an "employer" as that term is used
- 21 within the relevant sections of the California Labor Code.
- 22 18. Plaintiff has exhausted her administrative remedies and pre-filing requirements pursuant to
- 23 California Labor Code section 2699.3, and has also fulfilled all notice requirements under the
- 24 statute. (Please See **Exhibit 1**). The statutory time period for the LWDA to investigate and/or
- 25 respond, and for the employers to respond, has concluded, allowing Plaintiff to proceed with
- 26 formal litigation.
- 27 19. Throughout the operative limitations period, Plaintiff and all other aggrieved employees were
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1 denied the protections and benefits of the Labor Code and IWC Wage Order(s) due to
2 Defendants' standard policies and practices. Said violations are set forth below.

3 **FIRST CAUSE OF ACTION**
4 **Meal and Rest Period Violations Pursuant to Labor Code § 2698 et seq.**
5 **Representative Action**
6 **(By Plaintiff against Defendants and DOES 1 through 10)**

7 20. Plaintiff hereby incorporates by reference paragraphs 1 through 19 as though fully set forth
8 herein.

9 21. Labor Code section 1198 states:

10 The maximum hours of work and the standard conditions of labor fixed
11 by the commission shall be the maximum hours of work and the
12 standard conditions of labor for employees. The employment of any
13 employee for longer hours than those fixed by the order or under
14 conditions of labor prohibited by the order is unlawful.

15 Defendants violated this section by establishing working conditions below the standard of the
16 applicable Wage Order.

17 22. Under applicable California law, "An employer may not employ an employee for a work period
18 of more than five hours per day without providing the employee with a meal period of not less
19 than 30 minutes [...] An employer may not employ an employee for a work period of more than
20 10 hours per day without providing the employee with a second meal period of not less than
21 30 minutes." Lab. Code § 512(a); see also I.W.C. Wage Order 5, codified as 8 Cal. Code Regs.
22 § 11050 (11)(A).

23 23. Unless the employee is relieved of all duty during a thirty (30) minute Meal Period, the Meal
24 Period shall be considered an "on duty" Meal Period and counted as time worked. 8 Cal. Code
25 Regs. § 11050 (11).

26 24. California law requires employers to provide nonexempt employees with a 10-minute Rest
27 Period for every four hours worked, or "major fraction thereof." 8 Cal. Code Regs. § 11050
28 (12).

29 25. An employer who fails to provide Meal or Rest Periods as required by an applicable Wage
30 Order must pay the employee one additional hour of pay at the employee's regular rate of pay
31 for each workday that the Meal or Rest Period was not provided. Lab. Code § 226.7(b); 8 Cal.

Code Regs. § 11050 (11), (12).

26. Defendants failed to provide compliant Meal Periods or requisite Meal Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 5, codified as Title 8, California Code of Regulations, section 11050 (7) and (11).

27. For example, Defendants do not possess a legal Meal Period policy, and make no attempt to ensure that their employees are either timely or wholly provided Meal Periods in compliance with California law. The employees would often either miss a Meal Period entirely, be provided a short or untimely Meal Period, or be provided only one Meal Period, even where they were working in excess of 10 hours a day. Defendants would pressure their employees to either skip or cut short a Meal Period to address customers or workload concerns. Defendants routinely did not provide adequate staffing, which contributed to these meal period violations. Finally, Defendants failed to provide Meal Period penalty payments to employees on such occasions.

28. Defendants failed to provide compliant Rest Periods or requisite Rest Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, and I.W.C. Wage Order 5. These violations are due, in part, to the fact that Defendants do not possess a legal Rest Period policy or practice, as its purported Rest Period policy lacks required language, including failing to provide for breaks for every four hours “*or major fraction thereof*,” resulting in employees failing to receive all Rest Periods legally due. Defendants do not provide Rest Periods, as defined by California law. Defendants would pressure their employees to either skip or cut short a Rest Period to address customers or workload concerns. Defendants routinely did not provide adequate staffing, which contributed to these rest period violations. Finally, Defendants have never provided a Rest Period penalty payment to any employee.

29. Moreover, Defendants’ policies and practices preclude “duty-free” Meal and Rest Periods. Specifically, employees were required to be “on-call” and to respond to the employer immediately via either cell phones, radios or “walkie-talkies” at all times while under the employer’s control. These institutional and established practices of Defendants are illegal, in

1 that Plaintiff and all other aggrieved employees were denied proper and/or timely Meal and
2 Rest Periods.

3 30. Defendants willfully failed and refused to pay Plaintiff and all other aggrieved employees one
4 additional hour of pay at their regular rate of pay for all workdays that a Meal or Rest Period
5 was not provided, as required by Labor Code section 226.7 and IWC Wage Order 5 (11), (12).

6 31. Any payments made by Defendants for missed or late Meal Periods or Rest Periods were not
7 paid at an employee's regular rate in violation of Labor Code section 226.7 and the operative
8 I.W.C. Wage Orders. Instead, these payments were made at an employee's base rate and did
9 not include the value of, *inter alia*, all actual compensation owed, and/or all employee benefits
10 such as, for example, non-discretionary compensation and other employee benefits.

11 32. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
12 Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be
13 proven at trial.

14 33. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
15 behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
16 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
17 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
18 Prayer For Relief.

19 34. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
20 pursuant to Labor Code sections 2699(a) for each of these employees.

21 35. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
22 section 2699(g)(1).

23 **SECOND CAUSE OF ACTION**
24 **Minimum Wage Violations Pursuant to Labor Code § 2698 et seq.**
25 **Representative Action**
(By Plaintiff against Defendants and DOES 1 through 10)

26 36. Plaintiff hereby incorporates by reference paragraphs 1 through 35 as though fully set forth
27 herein.
28

1 37. Defendants failed to provide all compensation, including minimum wage and overtime
2 compensation, to their employees in violation of, *inter alia*, Labor Code sections 1194 and 510
3 and the I.W.C. Wage Orders, codified as Title 8, California Code of Regulations, section
4 11050 (3). This illegal action is due, in part, to Defendants' policies of (1) altering (and
5 deducting) the work-time reported by its employees prior to payment, (2) failing to properly
6 retain accurate Time Records, in violation of California law, and (3) failing to provide
7 compensation for all time worked by the employees, or in control of the employer. Defendants
8 would instruct Plaintiff, and other employees, to report their scheduled (as opposed to actual)
9 work hours, resulting in a loss of compensation. Additionally, Defendants would often require
10 Plaintiff and other employees, to work extended hours (beyond their scheduled hours and
11 during Meal Periods), without compensation.

12 38. As a result of Defendants' failure to comply with the provisions of the Labor Code, Plaintiff
13 and all other aggrieved employees have been damaged in an amount to be proven at trial.

14 39. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
15 behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
16 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
17 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
18 Prayer For Relief.

19 40. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
20 pursuant to Labor Code sections 2699(a) for each of these employees.

21 41. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
22 section 2699(g)(1).

23 **THIRD CAUSE OF ACTION**
24 **Overtime Violations Pursuant to Labor Code § 2698 et seq.**
25 **Representative Action**
(By Plaintiff against Defendants and DOES 1 through 10)

26 42. Plaintiff hereby incorporates by reference paragraphs 1 through 41 as though fully set forth
27 herein.
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1 43. Defendants failed to pay Plaintiff and all other aggrieved employees all compensation,
2 including Overtime Compensation, due in violation of, among other statutes, Labor Code
3 section 510. These violations occurred due to Defendants' illegal policies, referenced above,
4 whereby employees experienced monetary under-compensation on workdays where overtime
5 compensation was due pursuant to California law. Additionally, Defendants failed to calculate
6 the correct regular rate of pay for purposes of paying overtime compensation, as Defendants
7 due not include the value of non-discretionary compensation and other employee benefits when
8 determining the overtime rate of pay owed to employees. The systematic failure to provide
9 proper overtime compensation is a violation of California law.

10 44. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
11 Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be
12 proved at trial.

13 45. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
14 behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
15 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
16 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
17 Prayer For Relief.

18 46. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
19 pursuant to Labor Code sections 2699(a) for each of these employees.

20 47. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
21 section 2699(g)(1).

22 **FOURTH CAUSE OF ACTION**
23 **Wage Statement Violations Pursuant to Labor Code § 2698 et seq.**
24 **Representative Action**
(By Plaintiff against Defendants and DOES 1 through 10)

25 48. Plaintiff hereby incorporates by reference paragraphs 1 through 47 as though fully set forth
26 herein.

27 49. Defendants failed to provide Plaintiff and all other aggrieved employees with accurate itemized
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1 wage statements in violation of, among other statutes, Labor Code section 226. These
2 violations include, but are not limited to, Defendants' failure to accurately identify all
3 applicable regular and overtime (including double-time) rates of pay in violation of section
4 226(a)(9), and providing inaccurate representations of both "gross" and "net wages."
5 Defendants also failed to accurately list "all applicable hourly rates in effect during the pay
6 period and the corresponding number of hours worked at each hourly rate," in violation of
7 226(a)(9). Defendants also failed to provide an accurate showing of the "total hours worked,"
8 in violation of Labor Code section 226(a)(2). For example, Defendants had notice of
9 employees working outside of their scheduled and/or reported hours, as well as within Meal
10 and Rest Periods, but did not provide compensation. Defendants also failed to provide an
11 accurate name and address for the legal entity that is the employer, in violation of Labor Code
12 section 226(a)(8). As an example, please see Exhibit A of **Exhibit 1** (the attachment to
13 Plaintiff's LWDA notice correspondence).

14 50. Further, the Defendants' wage statement listings are confusing and employees cannot readily
15 ascertain their total hours worked, applicable rates, and all gross and net wages. As one
16 example, Defendants are apparently using a time calculating system other than "minutes", but
17 without explanation to the employees within the wage statement.

18 51. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
19 Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be
20 proven at trial.

21 52. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
22 behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
23 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
24 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
25 Prayer For Relief.

26 53. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
27 pursuant to Labor Code sections 2699(a) for each of these employees.
28

1 54. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
2 section 2699(g)(1).

3 **FIFTH CAUSE OF ACTION**
4 **Failure to Reimburse Pursuant to Labor Code § 2698 et seq.**
5 **Representative Action**
6 **(By Plaintiff against Defendants and DOES 1 through 10)**

7 55. Plaintiff hereby incorporates by reference paragraphs 1 through 54 as though fully set forth
8 herein.

9 56. Defendants failed to provide compliant expense reimbursement payments in violation of, *inter*
10 *alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by
11 Plaintiff and other non-exempt employees, including expenses for cell-phone costs, mileage
12 and other necessary work supplies.

13 57. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
14 Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be
15 proven at trial.

16 58. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
17 behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
18 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
19 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
20 Prayer For Relief.

21 59. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
22 pursuant to Labor Code sections 2699(a) for each of these employees.

23 60. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
24 section 2699(g)(1).

25 **SIXTH CAUSE OF ACTION**
26 **Failure to Pay Wages Upon Separation Pursuant to Labor Code § 2698 et seq.**
27 **Representative Action**
28 **(By Plaintiff against Defendants and DOES 1 through 10)**

61. Plaintiff hereby incorporates by reference paragraphs 1 through 60 as though fully set forth

herein.

62. Defendants failed to provide Plaintiff and other aggrieved employees with all wages earned and unpaid at termination in violation of, among other statutes, Labor Code sections 201 through 203. These violations resulted from, among other unlawful actions, Defendants' willful failure to provide accurate and complete compensation to aggrieved employees under Labor Code sections 226.7, 510, 512, 1197, and 2802, as set forth above. Additionally, Defendants failed to timely pay Plaintiff, and other aggrieved employees, all wages actually owed at the time of termination, including but not limited to, all vacation pay owed.

63. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be proven at trial.

64. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3, and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these penalties pursuant to Labor Code section 2699, as more specifically set forth in the below Prayer For Relief.

65. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants pursuant to Labor Code sections 2699(a) for each of these employees.

66. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code section 2699(g)(1).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of all aggrieved employees, prays for judgment as follows:

1. For an award of attorneys' fees and costs of suit herein pursuant to Labor Code section 2699(g)(1);
2. For an award of statutory civil penalties pursuant to Labor Code section 2699(f)(2); and
3. For such other relief as the Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests that this matter be heard and decided by trial by jury.

Dated: September 8, 2021

SULLIVAN & YAECKEL LAW GROUP, APC

Eric Yaeckel

Eric K. Yaeckel
Jason A. Baluarte
Attorneys for Plaintiff MILIPZA ANDRADE
HERNÁNDEZ, in a Representative capacity only, and
on behalf of other members of the general public
similarly situated

Exhibit 1

SULLIVAN & YAECKEL

LAW GROUP

A PROFESSIONAL CORPORATION

2330 THIRD AVENUE
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760
FACSIMILE 619-702-6761

July 1, 2021

Labor and Workforce Development Agency
Attn. PAGA Administrator

Submitted Via Online Filing

Re:

Milipza Andrade Hernandez v. GNIMGT, Inc.; Good-Nite Inn, Inc.; Good Nite Inn Management, Inc.; Good Nite Inn Buena Park, Inc.; Good Nite Inn Calabasas, Inc.; Good Nite Inn Chula Vista, Inc.; Good Nite Inn Fremont, Inc.; Good Nite Inn Redlands, Inc.; Good Nite Inn Redwood, Inc.; Good Nite Inn Rohnert Park, Inc.; Good Nite Inn Sacramento, Inc.; Good Nite Inn Salinas, Inc.; Good Nite Inn San Diego, Inc.; Good Nite Inn Sylmar, Inc.; Camarillo Good Nite Inn Partners, A California Limited Partnership; Good-Nite Inn Investment Santa Ana LP.; Good Nite Inn Orange Partners, A California Limited Partnership; Good Nite Sea World Partners, L.P.; Philip Ho; and Nicholas Ho

Our File No.: 7253

Dear Administrator:

Please allow this correspondence to serve as “written notice,” as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by GNIMGT, Inc.; Good-Nite Inn, Inc.; Good Nite Inn Management, Inc.; Good Nite Inn Buena Park, Inc.; Good Nite Inn Calabasas, Inc.; Good Nite Inn Chula Vista, Inc.; Good Nite Inn Fremont, Inc.; Good Nite Inn Redlands, Inc.; Good Nite Inn Redwood, Inc.; Good Nite Inn Rohnert Park, Inc.; Good Nite Inn Sacramento, Inc.; Good Nite Inn Salinas, Inc.; Good Nite Inn San Diego, Inc.; Good Nite Inn Sylmar, Inc.; Camarillo Good Nite Inn Partners, A California Limited Partnership; Good-Nite Inn Investment Santa Ana LP.; Good Nite Inn Orange Partners, A California Limited Partnership; Good Nite Sea World Partners, L.P.; Philip Ho; and Nicholas Ho, (hereinafter “Good Nite Inns”), in the above referenced matter. This “written notice” is filed on behalf of Ms. Hernandez, and all non-exempt employees working for Good Nite Inns. Thank you for your

assistance and instruction on this issue.

The specific provisions alleged to have been violated by Good Nite Inns are as follows:

CALIFORNIA LABOR CODE SECTIONS 201-203, 226, 226(a), 226.7, 246, 432, 510, 512, 558, 1194, 1197.1, 1198.5 and 2802, as well as IWC Wage Order 5, or any other applicable Wage Order, codified as Title 8, California Code of Regulations, section 11050 *et seq.*

Facts and theories supporting the allegations: Our client, Milipza Andrade Hernandez, worked as a non-exempt employee employed by Good Nite Inns from October 8, 2019, through February, 2021.

Please Note: Ms. Hernandez contends that the individuals (Philip Ho and Nicholas Ho), as named above, were acting as Ms. Hernandez and other employees' co-employers, and/or are also liable for the alleged Labor Code violations set forth below, pursuant to California law.

While there are several different corporate entities and limited partnerships, each holds itself out as part of one "Good Nite Inns" with standard policies (detailed below). The Good Nite Inns have various locations currently operating throughout California. Sixteen of the Eighteen named "Good Nite Inns" entities share the same entity address located at 11500 W. Olympic Blvd, Ste 345, Los Angeles, California. Each Good Nite Inns entity has represented that either Philip Ho or Nicholas Ho are president and/or have a managing interest, pursuant to the California Secretary of State filings. Each of these individuals and corporate entities who make up Good Nite Inns are acting as Plaintiffs, and all other employees', co-employers for purposes of California law.

Throughout the term of Ms. Hernandez's employment, Good Nite Inns required Ms. Hernandez and all other non-exempt employees to experience actions illegal under the California Labor Code, including the following:

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Minimum Wage and Overtime Violations

- Good Nite Inns failed to provide all compensation, including minimum wage and overtime compensation, as well as compensation for work performed inside of Meal and Rest periods, to its employees in violation of, *inter alia*, Labor Code sections 1194 and 510 and the IWC Wage Order 5, or any other applicable Wage Order. This illegal action is due, in part, to Good Nite Inns' policies of (1) altering (and deducting) the work-time recorded by its employees, *prior* to payment of compensation (2) failing to properly retain accurate Time Records, in violation of California law, and (3) failing to provide compensation (including both minimum and overtime compensation) for all time worked by the employees, or in control of the employer. For instance, Good Nite Inns would instruct Ms. Hernandez to report her scheduled (as opposed to *actual*) work hours, resulting in a loss of compensation. Additionally, Good Nite Inns would often require Ms. Hernandez to work extended hours (beyond her scheduled hours), without compensation. Further, Good Nite Inns would regularly contact Ms. Hernandez outside of normal work hours (*i.e.*, "after hours" or during lunch) without compensation.
- Additionally, among other issues, Good Nite Inns has notice of Ms. Hernandez, and others, working outside of their scheduled and/or reported hours, as well as *within* Meal and Rest Periods, but fails to provide any compensation for this work-time. Further, Good Nite Inns failed to properly calculate and pay overtime at the actual overtime rate of pay, as Good Nite Inns ignores certain compensation when calculating the Regular Rate of Pay.
- Good Nite Inns also failed to provide all compensation for minimum wage and overtime worked before employees were on the clock, but still under Good Nite Inns' control. Ms. Hernandez will testify Good Nite Inns non-exempt employees arrived at work at the same time each day and had only one time-keeping system location with which to clock-in at, this resulted in uncompensated waiting time to clock-in each day. Ms. Hernandez will state she was not compensated for this time.

Failure to Provide Compliant Meal Periods

- Good Nite Inns failed to provide compliant Meal Periods or requisite Meal Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 5 or any other applicable Wage Order. For example, Good Nite Inns does not possess a legal Meal Period policy and makes no attempt to ensure that its employees are either timely or wholly provided Meal Periods. The employees would often either miss a Meal Period entirely, or be provided a short or untimely Meal Period. Whether or not an employee was provided a Meal Period was often contingent upon how busy or understaffed the hotel was at the time.

- Good Nite Inns would pressure its employees to either skip, or cut short, a Meal Period as employees were expected to respond to supervisors at all times. Good Nite Inns has never provided a compliant Meal Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions when employees *were* paid Meal Period penalties (*i.e.* California Meal Period Premiums), such payments do not “cure” the stated labor code violation under section 226.7. The California Supreme Court held that “An employer’s failure to provide an additional hour of pay does not form part of a section 226.7 violation, and an employer’s provision of an additional hour of pay does not excuse a section 226.7 violation. The failure to provide required meal and rest breaks is what triggers a violation of section 226.7.” (*Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1256, italics added.). Even more recently, a 2020 California Supreme Court ruling stated that, “The remedy for a Labor Code violation, through settlement or other means, is distinct from the fact of the violation itself. For example, employers can pay an additional hour of wages as a remedy for failing to provide meal and rest breaks. (§ 226.7, subd. (c).) But we have held that payment of this statutory remedy ‘does not excuse a section 226.7 violation.’” *Kim v. Reins International California, Inc.*, (2020) 9 Cal.5th 73. To be clear, payment of a Meal Period penalty to employees does not rectify the violation, it is in fact an admission of a labor code violation.
- Good Nite Inns’ policy and practice would not allow its employees to “leave the premises” during Meal Periods, in case of sudden customer rushes and guest emergencies.
- Finally, Good Nite Inns required its employees to constantly monitor their cell phones and company issued radios or “walkie talkies” in order to be “on-call” at all times, specifically during Meal Periods. On occasion, Good Nite Inns would interrupt, or cut short, its employees Meal Periods and require them to return to work. Ms. Hernandez will testify at least four times per week she was interrupted during Meal Periods to answer her company issued radio, which she was required to keep on her and answer at all times. Ms. Hernandez will testify she frequently had to cut her Meal Period short in order to prepare rooms for guests who had arrived early for their reservation. Moreover, Good Nite Inns time-keeping system would not allow Ms. Hernandez to clock back in before her 30 minute Meal Period was up, even when she had to cut her Meal Period short.

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Failure to Provide Compliant Rest Periods

- Good Nite Inns failed to provide compliant Rest Periods or requisite Rest Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 5, or any other applicable Wage Order. For example, Good Nite Inns does not possess a legal Rest Period policy, as its Rest Period policy lacks required language under California law. Good Nite Inns makes no attempt to ensure that its employees are either timely or wholly provided Rest Periods. The employees would often either miss a Rest Period entirely, be provided a short or untimely Rest Period, or be provided only one Rest Period, even when they were working in excess of 6.5 hours a day. Good Nite Inns would pressure its employees to either skip, or cut short, a Rest Period as employees were expected to respond to supervisors at all times. Good Nite Inns has never provided a compliant Rest Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which Good Nite Inns would provide a Rest Period penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.
- On occasion, Good Nite Inns would interrupt, or cut short, its employees Rest Periods and require them to return to work. Ms. Hernandez will testify she was denied Rest Periods on a daily basis, and when she and other non-exempt employees asked their supervisor, they were specifically instructed to skip breaks and focus on their work.
- Good Nite Inns illegally retained control over its employees during Rest Periods. For example, Good Nite Inns required its employees to “remain on the premises,” and to remain “On Call” (*i.e.* monitor their telephones and company issued radios or “walkie talkies”) at all times, including during Rest Periods.

Wage Statement Violations

- Good Nite Inns violated Labor Code section 226(a)(2) by failing to furnish an accurate showing of all hours worked at each hourly rate by the employee. Ms. Hernandez and other employees were not compensated for all hours worked (due in part to Good Nite Inns’s requirement that employees list only *scheduled* work-times, not actual work-times.)
- Good Nite Inns violated Labor Code section 226(a)(5) by failing to furnish an accurate showing of the net wages earned by its employees. For example, Good Nite Inns (a) would not provide compensation for all hours and minutes worked, (b) would use an improper (and lesser) Overtime Rate of Pay, and (c) would fail to pay Meal and/or Rest Period penalties when due. Further, on the rare occasions in which

Good Nite Inns would provide a Meal or Rest Period penalty, it would pay said penalty at an improper (and lesser) rate, due to the failure to properly calculate the Regular Rate of Pay.

- Good Nite Inns violated Labor Code section 226(a)(8) by failing to provide an accurate showing of the name and address of the legal entity that is the employer. For example, Ms. Hernandez Wage Statement ending on January 31, 2021, indicates the name of her employer as “GNIMGT INC”, but fails to provide any address for this entity. (See **Exhibit A**).
- Good Nite Inns violated Labor Code section 226(a)(9) by failing to furnish an accurate showing of all applicable hourly rates, in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Ms. Hernandez and the other employees were not compensated for all hours worked (due in part to Good Nite Inns requiring employees to list only *scheduled* work-times, not actual work-times to include “on-call” hours). Additionally, and as an example, for the pay period ending January 31, 2021, Good Nite Inns states that it paid Ms. Hernandez for “1.75” overtime hours of work (See **Exhibit A**). However, Ms. Hernandez cannot “readily ascertain” what 1.75 means without “reference to other documents or information.” In fact, Ms. Hernandez cannot “readily ascertain” what these figures mean at all. This is because Good Nite Inns is apparently using a time-calculating system other than “minutes,” but without explanation to the employees within the wage statement. As minutes are measured on a scale of 1 through 60, it is not apparent what these figures are meant to represent. Without an explanation for how these figures were arrived at, employees cannot “readily ascertain” their total hours worked. Therefore, Good Nite Inns failed to provide an accurate showing of the “total hours worked” by its employees pursuant to section 226(a)(2), due to all the aforesaid reasons.

Failure to Provide Compliant Expense Reimbursement Payments

- Good Nite Inns failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Ms. Hernandez and other non-exempt employees, including expenses for cell-phone costs, other necessary work supplies, and mileage. Plaintiffs’ managers would frequently use their cell phones to contact her from their rooms during off hours, when radios were inaccessible. Further, Ms. Hernandez frequently had to purchase her own cleaning supplies, such as, gloves, and air freshener for her job because Good Nite Inns failed to provide these items fully. Ms. Hernandez was never compensated for cell phone usage or work supplies.

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Willful Failure to Provide All Compensation to Ex-Employees

- Good Nite Inns failed to provide all compensation upon termination of employment in violation of Labor Code sections 201-203, due, in part, to the fact that Good Nite Inns failed to provide proper compensation for all hours worked, and failed to pay full Meal or Rest Period penalties, as discussed above. Additionally, Good Nite Inns failed to fully pay its employees their final wages at the termination of their employment.

To confirm, Good Nite Inns is a "person" as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,



Eric K Yaeckel, Esq.

cc: *Via Certified U.S. Mail*

GOOD NITE INN MANAGEMENT

Good Nite Inn San Diego, Inc.

Agent for Service of Process

Philip Ho

11500 W. Olympic Blvd., Suite 345

Los Angeles, CA 90064

GOOD NITE INN, INC.

GNIMGT, INC.

Good Nite Inn Buena Park, Inc.

Agent for Service of Process

Nicholas Ho

11500 W. Olympic Blvd., Suite 345

Los Angeles, CA 90064

Good Nite Inn Calabasas, Inc.

Good Nite Inn Chula Vista, Inc.

Good Nite Inn Fremont, Inc.

Agent for Service of Process

Nicholas Ho

11500 W. Olympic Blvd., Suite 345

Los Angeles, CA 90064

Good Nite Inn Redlands, Inc.
Good Nite Inn Redwood, Inc.
Good Nite Inn Rohnert Park, Inc.

Agent for Service of Process

Nicholas Ho
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Los Angeles, CA 90064

Good Nite Inn Sacraemnto, Inc.
Good Nite Inn Salinas, Inc.

Agent for Service of Process

Nicholas Ho
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Good Nite Inn San Diego, Inc.
Good Nite Inn Sylmar, Inc.

Agent for Service of Process

Nicholas Ho
11500 W. Olympic Blvd., Suite 345
Los Angeles, CA 90064

GOOD NITE INN ORANGE PARTNERS, A CALIFORNIA LIMITED PARTNERSHIP

Agent for Service of Process

Kazuo E. Yokeno
11859 Wilshire Blvd., Ste. 410
Los Angeles, CA 90025

GOOD NITE-NITE INN INVESTMENT SANTA ANA LP.

Agent for Service of Process

Kazuo E. Yokeno
11500 Olympic Blvd., #345
Los Angeles, CA 90064

GOOD NITE INN SEA WORLD PARTNERS, L.P.

Camarillo Good Nite Inn Partners, A California Limited Partnership

Agent for Service of Process

Good-Nite Inn, Inc.
11500 W. Olympic Blvd., Suite 345
Los Angeles, CA 90064

Philip Ho
11500 W. Olympic Blvd., Suite 345
Los Angeles, CA 90064

Nicholas Ho
11500 W. Olympic Blvd., Suite 345
Los Angeles, CA 90064

cc: Courtesy Copy and Filing Fee via U.S. Mail

Department of Industrial Relations
Accounting Unit
455 Golden Gate Ave, 10th Floor
San Francisco, CA 94102

Exhibit A

Milipza Andrade Hernandez

Employee ID	7899	Fed Taxable Income
Location	226-7	Fed Filing Status
Hourly	\$14.35	State Filing Status

GNIMGT INC

1,300.47	Check Date	February 9, 2021
S-5	Period Beginning	January 16, 2021
S-5	Period Ending	January 31, 2021

Earnings Statement

Check Number	1025302601
Net Pay	1,161.36
Check Amount	1,161.36
Total Hours Worked	89.75

Earnings	Rate	Hours	Amount	YTD
OVERTIM	21.53	1.75	37.67	128.50
REGULAR	14.35	88.00	1,262.80	3,744.30
Gross Earnings		89.75	1,300.47	3,872.80

Taxes	Amount	YTD
CA	0.00	0.00
CASDI-E	15.61	46.48
FITW	24.01	69.16
MED	18.86	56.16
SS	80.63	240.11
Taxes	139.11	411.91

Deductions	Amount	YTD
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No Deductions

Direct Deposits	Type Account	Amount
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No Direct Deposits

	Available Plan Year	
Time Off	to Use	Used
Ca.Sick	48.00	0.00
Vaction	63.82	0.00

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Christian Yorke Struckmeyer](#)
Subject: Thank you for submission of your PAGA Case.
Date: Thursday, July 1, 2021 4:18:22 PM

7/1/2021

LWDA Case No. LWDA-CM-836746-21
Law Firm : Sullivan & Yaeckel Law Group, APC
Plaintiff Name : Milipza Andrade Hernandez
Employer: Good Nite Inn Management
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm