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ELECTRONICALLY FILED
Superior Court of California
County of Alameda
12/22/2021

Chad Firke, Executive Officer / Clerk of the Court

By: Cheryl Clark Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

GELIN TURCIOS TOLEDO, individually,
and on behalf of other members of the
general public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiff,

vs.

COLUMBUS MANUFACTURING, INC.,
a Delaware corporation; HORMEL FOODS
CORPORATION, a Delaware corporation;
HORMEL FOODS INTERNATIONAL
CORPORATION, a Delaware corporation;
HORMEL FOODS CORPORATE
SERVICES, LLC, a Delaware limited
liability company; HORMEL FOODS
OPERATIONS, LLC, a Minnesota limited
liability company; HORMEL FOODS
SALES, LLC, a Delaware limited liability
company; and DOES 1 through 10,
inclusive,

Defendants.

Case No. RG21106838

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code §§ 551, 552, and 558 (Failure to Provide One Day's Rest in Seven)
- (9) Violation of California Labor Code § 2802

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- (Unreimbursed Business Expenses);
- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Gelin Turcios Toledo, individually, and on behalf of all other members of the
2 public similarly situated and as an aggrieved employee and on behalf of all other aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice.

23 3. Venue is proper in this Court, because Defendants employ persons in this
24 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
25 and occurrences related to this action occurred in this county.

26 THE PARTIES

27 4. Plaintiff Gelin Turcios Toledo is a resident of Hayward, in Alameda County,
28 California. Defendants employed Plaintiff as an hourly, non-exempt Production Worker from

1 approximately May 2019 to February 5, 2021. During her employment, Plaintiff worked for
2 Defendants at their location in Hayward, California. Plaintiff worked approximately eight (8)
3 to nine (9) hours or more per day, five (5) to six (6) days per week, and forty (40) hours or
4 more per week. At the time Plaintiff's employment with Defendants ended, she earned
5 approximately \$16.50 per hour. Her job duties as a Production Worker included without
6 limitation, peeling fermented casings from salami; cutting, separating and placing salami into
7 large bins; and weighing salami to prepare it for the packaging department.

8 5. COLUMBUS MANUFACTURING, INC. was and is, upon information and
9 belief, a Delaware corporation, and at all times hereinafter mentioned, an employer whose
10 employees are engaged throughout this county, the State of California, or the various states of
11 the United States of America.

12 6. HORMEL FOODS CORPORATION, was and is, upon information and belief,
13 a Delaware corporation, and at all times hereinafter mentioned, an employer whose employees
14 are engaged throughout this county, the State of California, or the various states of the United
15 States of America.

16 7. HORMEL FOODS INTERNATIONAL CORPORATION, was and is, upon
17 information and belief, a Delaware corporation, and at all times hereinafter mentioned, an
18 employer whose employees are engaged throughout this county, the State of California, or the
19 various states of the United States of America.

20 8. HORMEL FOODS CORPORATE SERVICES, LLC, was and is, upon
21 information and belief, a Delaware limited liability company, and at all times hereinafter
22 mentioned, an employer whose employees are engaged throughout this county, the State of
23 California, or the various states of the United States of America.

24 9. HORMEL FOODS OPERATIONS, LLC, was and is, upon information and
25 belief, a Minnesota limited liability company, and at all times hereinafter mentioned, an
26 employer whose employees are engaged throughout this county, the State of California, or the
27 various states of the United States of America.

28 10. HORMEL FOODS SALES, LLC, was and is, upon information and belief, a

1 Delaware limited liability company, and at all times hereinafter mentioned, an employer
2 whose employees are engaged throughout this county, the State of California, or the various
3 states of the United States of America.

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

8 12. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
9 were the partners, agents, owners, or managers of COLUMBUS MANUFACTURING, INC.;
10 HORMEL FOODS CORPORATION; HORMEL FOODS INTERNATIONAL
11 CORPORATION; HORMEL FOODS CORPORATE SERVICES, LLC; HORMEL FOODS
12 OPERATIONS, LLC; and HORMEL FOODS SALES, LLC at all relevant times.

13 13. Plaintiff is informed and believes, and thereon alleges, that each and all of the
14 acts and omissions alleged herein was performed by, or is attributable to, COLUMBUS
15 MANUFACTURING, INC.; HORMEL FOODS CORPORATION; HORMEL FOODS
16 INTERNATIONAL CORPORATION; HORMEL FOODS CORPORATE SERVICES, LLC;
17 HORMEL FOODS OPERATIONS, LLC; HORMEL FOODS SALES, LLC; and/or DOES 1
18 through 10 (collectively, “Defendants” or “COLUMBUS”), each acting as the agent,
19 employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-
20 Defendants and was acting within the course and scope of such agency, employment, joint
21 venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any
22 and all Defendants were in accordance with, and represent, the official policy of Defendants.

23 14. At all relevant times, Defendants, and each of them, ratified each and every act
24 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
25 and abetted the acts and omissions of each and all the other Defendants in proximately causing
26 the damages herein alleged.

27 15. Plaintiff is informed and believes, and thereon alleges, that each of said
28 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,

1 omissions, occurrences, and transactions alleged herein.

2 16. Under California law, Defendants are jointly and severally liable as employers
3 for the violations alleged herein because they have each exercised sufficient control over the
4 wages, hours, working conditions, and employment status of Plaintiff and class members.
5 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
6 controlled their work schedule and/or conditions of employment, determined their rate of pay,
7 and maintained their employment records. Defendants suffered or permitted Plaintiff and
8 class members to work and/or “engaged” Plaintiff and class members so as to create a
9 common-law employment relationship. As joint employers of Plaintiff and class members,
10 Defendants are jointly and severally liable for the civil penalties and all other relief available
11 to Plaintiff and class members under the law.

12 17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
13 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
14 members because Defendants have:

- 15 (a) jointly exercised meaningful control over the work performed by
16 Plaintiff and class members;
- 17 (b) jointly exercised meaningful control over Plaintiff’s and class members’
18 wages, hours, and working conditions, including the quantity, quality
19 standards, speed, scheduling, and operative details of the tasks
20 performed by Plaintiff and class members;
- 21 (c) jointly required that Plaintiff and class members perform work which is
22 an integral part of Defendants’ businesses; and
- 23 (d) jointly exercised control over Plaintiff and class members as a matter of
24 economic reality in that Plaintiff and class members were dependent on
25 Defendants, who shared the power to set the wages of Plaintiff and class
26 members and determined their working conditions, and who jointly
27 reaped the benefits from the underpayment of their wages and
28 noncompliance with other statutory provisions governing their

employment.

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

19. COLUMBUS MANUFACTURING, INC.; HORMEL FOODS CORPORATION; HORMEL FOODS INTERNATIONAL CORPORATION; HORMEL FOODS CORPORATE SERVICES, LLC; HORMEL FOODS OPERATIONS, LLC; HORMEL FOODS SALES, LLC; and/or DOES 1 through 10 are therefore alter egos of each other.

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

21. Plaintiff further alleges, upon information and belief, that Defendants COLUMBUS MANUFACTURING, INC.; HORMEL FOODS CORPORATION; HORMEL FOODS INTERNATIONAL CORPORATION; HORMEL FOODS CORPORATE SERVICES, LLC; HORMEL FOODS OPERATIONS, LLC; and HORMEL FOODS SALES, LLC are alter egos of each other for the following reasons:

(a) On HORMEL FOODS CORPORATION's SEC Form 10-K filing for 2020¹, COLUMBUS MANUFACTURING, INC.; HORMEL FOODS INTERNATIONAL CORPORATION; HORMEL FOODS CORPORATE SERVICES, LLC; and HORMEL FOODS SALES, LLC are listed as direct subsidiaries of HORMEL FOODS CORPORATION;

(b) On the California Secretary of State's website (<https://businesssearch.sos.ca.gov/>), COLUMBUS MANUFACTURING, INC.; HORMEL FOODS CORPORATION; HORMEL FOODS INTERNATIONAL CORPORATION; HORMEL

¹ 10-K Annual Report 12/04/2020, "Filings & Reports – SEC Filings | Hormel Foods" <https://investor.hormelfoods.com/filings-reports/sec-filings/default.aspx> (last accessed July 26, 2021).

1 FOODS CORPORATE SERVICES, LLC; HORMEL FOODS
2 OPERATIONS, LLC; and HORMEL FOODS SALES, LLC share the
3 same entity address and entity mailing address: “1 HORMEL PLACE,
4 AUSTIN, MN 55912”;

5 (c) Based on the Statement of Information forms filed with the California
6 Secretary of State’s website, COLUMBUS MANUFACTURING, INC.;
7 HORMEL FOODS CORPORATION; HORMEL FOODS
8 INTERNATIONAL CORPORATION; HORMEL FOODS
9 CORPORATE SERVICES, LLC; HORMEL FOODS OPERATIONS,
10 LLC; and HORMEL FOODS SALES, LLC, share the same Agent for
11 Service of Process, “CT CORPORATION SYSTEM”;

12 (d) Based on the Statement of Information forms filed with the California
13 Secretary of State’s website, COLUMBUS MANUFACTURING, INC.;
14 HORMEL FOODS CORPORATION; HORMEL FOODS
15 INTERNATIONAL CORPORATION; HORMEL FOODS
16 CORPORATE SERVICES, LLC; and HORMEL FOODS SALES, LLC,
17 share the same officers and/or managers, including, but not limited to:

18 i. Gary L. Jamison, who serves as Treasurer for HORMEL
19 FOODS CORPORATION; HORMEL FOODS
20 INTERNATIONAL CORPORATION; HORMEL FOODS
21 CORPORATE SERVICES, LLC; and HORMEL FOODS
22 SALES, LLC; Chief Financial Officer for COLUMBUS
23 MANUFACTURING, INC. and HORMEL FOODS
24 INTERNATIONAL CORPORATION; and Manager for
25 HORMEL FOODS CORPORATE SERVICES, LLC and
26 HORMEL FOODS SALES, LLC;

27 ii. James N. Sheehan, who serves as Chief Financial Officer for
28 HORMEL FOODS CORPORATION and Chief Executive

Officer for HORMEL FOODS CORPORATE SERVICES,
LLC; and

iii. James P. Snee, who serves as Chief Executive Officer for
HORMEL FOODS CORPORATION and HORMEL FOODS
SALES, LLC;

(e) On information and belief, COLUMBUS MANUFACTURING, INC.;
HORMEL FOODS CORPORATION; HORMEL FOODS
INTERNATIONAL CORPORATION; HORMEL FOODS
CORPORATE SERVICES, LLC; HORMEL FOODS OPERATIONS,
LLC; and HORMEL FOODS SALES, LLC utilize the same
standardized employment forms and issue the same employment
policies.

GENERAL ALLEGATIONS

22. Defendants manufacture and market premium deli meat and salami and high-quality, brand-name food and meat products in the United States and globally, and operate several locations in California, including at least two locations in Hayward, California. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their company headquarters in Austin, Minnesota which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

23. In particular, Plaintiff and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee’s time of hire.

1 24. Upon information and belief, Defendants maintain a centralized Payroll
2 department at their company headquarters in Austin, Minnesota which processes payroll for
3 all non-exempt, hourly paid employees working for Defendants at their various locations in
4 California, including Plaintiff and class members. Based upon information and belief,
5 Defendants issue the same formatted wage statements to all non-exempt, hourly paid
6 employees in California, irrespective of their work locations. Upon information and belief,
7 Defendants process payroll for departing employees in the same manner throughout the State
8 of California, regardless of the manner in which each employee's employment ends.

9 25. Defendants continue to employ non-exempt or hourly paid employees in
10 California.

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

15 27. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
16 members were not paid for all hours worked because all hours worked were not recorded.

17 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and class members were entitled to receive certain wages for
19 overtime compensation and that they were not receiving certain wages for overtime
20 compensation.

21 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and class members were entitled to be paid at a regular rate
23 of pay, and corresponding overtime rates of pay, that included as eligible income all
24 remuneration required by law, including but not limited to, all income derived from incentive
25 pay, nondiscretionary bonuses, and/or other forms of compensation.

26 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and class members were entitled to receive at least minimum
28 wages for compensation and that they were not receiving at least minimum wages for work

1 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
2 and class members were not paid at least minimum wages for work done off-the-clock.

3 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to meal periods in
5 accordance with the California Labor Code and applicable IWC Wage Order or payment of
6 one (1) additional hour of pay at their regular rates of pay when they were not provided with
7 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members
8 were not provided with all meal periods or payment of one (1) additional hour of pay at their
9 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
10 period.

11 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and class members were entitled to rest periods in
13 accordance with the California Labor Code and applicable IWC Wage Order or payment of
14 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
15 permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiff
16 and class members were not authorized and permitted to take compliant rest periods, nor did
17 Defendants provide Plaintiff and class members with payment of one (1) additional hour of
18 pay at their regular rates of pay when they were not authorized and permitted to take a
19 compliant rest period.

20 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
21 should have known that Plaintiff and class members were entitled to receive complete and
22 accurate wage statements in accordance with California law. In violation of the California
23 Labor Code, Plaintiff and class members were not provided complete and accurate wage
24 statements.

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

1 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and/or class members were entitled to vested vacation wages,
3 but in violation of the California Labor Code, were not paid such wages.

4 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and class members were entitled to timely payment of all
6 wages earned upon termination of employment. In violation of the California Labor Code,
7 Plaintiff and class members did not receive payment of all wages due, including, but not
8 limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay,
9 vested vacation wages, and/or reporting time pay, within permissible time periods.

10 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and class members were entitled to timely payment of wages
12 during their employment. In violation of the California Labor Code, Plaintiff and class
13 members did not receive payment of all wages, including, but not limited to, overtime wages,
14 minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay,
15 within permissible time periods.

16 38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and class members were entitled to receive sick leave
18 benefits to be paid at a regular rate of pay, that included, as eligible income, all income
19 derived from incentive pay, nondiscretionary bonuses, and/or other forms of compensation,
20 and to receive itemized wage statements or separate written statements showing the amount of
21 paid sick leave available, or paid time off provided in lieu of sick leave. In violation of the
22 California Labor Code, Defendants failed to include all forms of remuneration in calculating
23 the regular rate of pay for sick leave pay and/or failed to provide Plaintiff and class members
24 with written itemized wage statements or separate written statements showing this
25 information.

26 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that they were not permitted to compel or coerce Plaintiff and class
28 members to patronize their business in the purchase of anything of value, but did in fact

1 require Plaintiff and class members to purchase various items, including uniforms, from
2 Defendants.

3 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to one day's rest in seven.
5 In violation of the California Labor Code, Defendants required Plaintiff and class members to
6 work more than six consecutive days without a day of rest, where the total hours worked
7 exceeded 30 hours in any week or six hours in any one day thereof.

8 41. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and/or class members were entitled to suitable seating and/or
10 were entitled to sit when it did not interfere with the performance of their duties and also have
11 seats nearby to use during a lull in tasks that do not require moving about or standing. In
12 violation of the California Labor Code and applicable IWC Wage Order, Defendants failed to
13 provide Plaintiff and/or class members suitable seating.

14 42. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and/or class members were entitled to receive all reporting
16 time pay when Defendants required Plaintiff and/or class members to report to work but were
17 put to work for less than half of their regular scheduled shift. In violation of the California
18 Labor Code, Plaintiff and/or class members were not paid all reporting time pay.

19 43. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to receive full
21 reimbursement for all business-related expenses and costs they incurred during the course and
22 scope of their employment and that they did not receive full reimbursement of applicable
23 business-related expenses and costs incurred.

24 44. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, Defendants knew or should have known that they had a duty to compensate
26 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
27 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
28 falsely represented to Plaintiff and class members that they were properly denied wages, all in

1 order to increase Defendants' profits.

2 **PAGA REPRESENTATIVE ALLEGATIONS**

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

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

12 47. Plaintiff and other current and former employees of Defendants are "aggrieved
13 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
14 or former employees and one or more of the alleged violations were committed against them.

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

18 (a) The aggrieved employee or representative shall give written notice by
19 online filing with the LWDA and by certified mail to the employer of
20 the specific provisions of the California Labor Code alleged to have
21 been violated, including the facts and theories to support the alleged
22 violation.

23 (b) An aggrieved employee's notice filed with the LWDA pursuant to
24 2699.3(a) and any employer response to that notice shall be
25 accompanied by a filing fee of seventy-five dollars (\$75).

26 (c) The LWDA shall notify the employer and the aggrieved employee or
27 representative by certified mail that it does not intend to investigate the
28 alleged violation ("LWDA's Notice") within sixty (60) calendar days of

1 the postmark date of the aggrieved employee's notice. Upon receipt of
2 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
3 (65) calendar days of the postmark date of the aggrieved employee's
4 notice, the aggrieved employee may commence a civil action pursuant
5 to California Labor Code section 2699 to recover civil penalties.

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

- 10 (a) The aggrieved employee or representative shall give written notice by
11 online filing with the LWDA and by certified mail to the employer of
12 the specific provisions of the California Labor Code alleged to have
13 been violated (other than those listed in Section 2699.5), including the
14 facts and theories to support the alleged violation.
- 15 (b) An aggrieved employee's notice filed with the LWDA pursuant to
16 2699.3(c) and any employer response to that notice shall be
17 accompanied by a filing fee of seventy-five dollars (\$75).
- 18 (c) The employer may cure the alleged violation within thirty-three (33)
19 calendar days of the postmark date of the notice sent by the aggrieved
20 employee or representative. The employer shall give written notice
21 within that period of time by certified mail to the aggrieved employee or
22 representative and by online filing with the LWDA if the alleged
23 violation is cured, including a description of actions taken, and no civil
24 action pursuant to Section 2699 may commence. If the alleged violation
25 is not cured within the 33-day period, the aggrieved employee may
26 commence a civil action pursuant to Section 2699.

27 50. On August 6, 2021, Plaintiff provided written notice by online filing to the
28 LWDA and by certified mail to Defendants of the specific provisions of the California Labor

1 Code alleged to have been violated, including facts and theories to support the alleged
2 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
3 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
4 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
5 Plaintiff PAGA Case Number LWDA-CM-840596-21. A true and correct copy of Plaintiff's
6 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

7 51. On August 31, 2021, Plaintiff filed an amended written notice by online filing
8 to the LWDA and by certified mail to Defendants of the specific provisions of the California
9 Labor Code alleged to have been violated, supplementing and clarifying the facts and theories
10 to support the alleged violations set forth in her original LWDA notice, in accordance with
11 California Labor Code section 2699.3. A true and correct copy of Plaintiff's amended written
12 notice to the LWDA and Defendants is attached hereto as "Exhibit 2."

13 52. As of the filing date of this complaint, over 65 days have passed since Plaintiff
14 sent the notice and amended notice described above to the LWDA, and the LWDA has not
15 responded that it intends to investigate Plaintiff's claims and Defendants have not cured the
16 violations.

17 53. Thus, Plaintiff has satisfied the administrative prerequisites under California
18 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
19 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 227.3, 246, 450,
20 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

21 54. Labor Code section 558(a) provides "[a]ny employer or other person acting on
22 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
23 provision regulating hours and days of work in any order of the Industrial Welfare
24 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
25 dollars (\$50) for each underpaid employee for each pay period for which the employee was
26 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
27 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
28 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition

1 to any other civil or criminal penalty provided by law.”

2 55. Defendants, at all times relevant to this complaint, were employers or persons
3 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
4 rights by violating various sections of the California Labor Code as set forth above.

5 56. As set forth below, Defendants have violated numerous provisions of both the
6 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
7 Order.

8 57. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
9 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
10 private attorney general, seeks assessment and collection of civil penalties for herself, all other
11 aggrieved employees, and the State of California against Defendants for violations of
12 California Labor Code sections 201, 202, 204, 226(a), 226.7, 227.3, 246, 450, 510, 512(a),
13 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

14 **CLASS ACTION ALLEGATIONS**

15 58. Plaintiff brings this action on her own behalf, as well as on behalf of each and
16 all other persons similarly situated, and thus seeks class certification under California Code of
17 Civil Procedure section 382.

18 59. All claims alleged herein arise under California law for which Plaintiff seeks
19 relief authorized by California law.

20 60. Plaintiff’s proposed class consists of and is defined as follows:

21 All persons who worked for Defendants as non-exempt, hourly
22 paid employees in California, within four years prior to the filing
of the initial complaint until the date of trial (“Class”).

23 61. Plaintiff’s proposed subclass consists of and is defined as follows:

24 All persons who worked for Defendants as non-exempt, hourly
25 paid employees in California and who received at least one wage
26 statement within one (1) year prior to the filing of the initial
complaint until the date of trial (“Subclass”).

27 62. Members of the Class and Subclass are referred to herein as “class members.”

28 63. Plaintiff reserves the right to redefine the Class and Subclass and to add

1 additional subclasses as appropriate based on further investigation, discovery, and specific
2 theories of liability.

3 64. There are common questions of law and fact as to class members that
4 predominate over questions affecting only individual members, including, but not limited to:

- 5 (a) Whether Defendants required Plaintiff and class members to work over
6 eight (8) hours per day, over twelve (12) hours per day, or over forty
7 (40) hours per week and failed to pay all legally required overtime
8 compensation to Plaintiff and class members;
- 9 (b) Whether Defendants failed to pay Plaintiff and class members at least
10 minimum wages for all hours worked;
- 11 (c) Whether Defendants failed to provide Plaintiff and class members with
12 meal periods;
- 13 (d) Whether Defendants failed to authorize and permit Plaintiff and class
14 members to take rest periods;
- 15 (e) Whether Defendants provided Plaintiff and class members with
16 complete and accurate wage statements as required by California Labor
17 Code section 226(a);
- 18 (f) Whether Defendants failed to pay vested vacation wages as required by
19 California Labor Code section 227.3;
- 20 (g) Whether Defendants maintained accurate payroll records as required by
21 California Labor Code section 1174(d);
- 22 (h) Whether Defendants failed to pay earned overtime wages, minimum
23 wages, meal and rest period premiums, sick leave pay, vested vacation
24 wages, and/or reporting time pay due to Plaintiff and class members
25 upon their discharge;
- 26 (i) Whether Defendants failed timely to pay overtime wages, minimum
27 wages, meal and rest period premiums, sick leave pay, and/or reporting
28 time pay due to Plaintiff and class members during their employment;

- 1 (j) Whether Defendants failed to properly calculate the “regular rate of pay
2 upon which Plaintiff’s and/or class members’ sick leave rate of pay was
3 based, and failed to provide Plaintiff and class members with written
4 notice of paid sick leave available, as required by California Labor Code
5 section 246;
- 6 (k) Whether Defendants compelled and/or coerced Plaintiff and class
7 members to patronize their business;
- 8 (l) Whether Defendants failed to provide Plaintiff and class members one
9 day’s rest in seven;
- 10 (m) Whether Defendants failed to provide suitable seating to Plaintiff and/or
11 class members;
- 12 (n) Whether Defendants failed to pay reporting time pay to Plaintiff and/or
13 class members;
- 14 (o) Whether Defendants failed to reimburse Plaintiff and class members for
15 necessary and required business-related expenditures and/or losses
16 incurred by them in the scope of their employment;
- 17 (p) Whether Defendants engaged in unlawful and unfair business practices
18 in violation of California Business & Professions Code sections 17200,
19 *et seq.*; and
- 20 (q) The appropriate amount of damages, restitution, or monetary penalties
21 resulting from Defendants’ violations of California law.

22 65. There is a well-defined community of interest in the litigation and the class
23 members are readily ascertainable:

- 24 (a) Numerosity: The class members are so numerous that joinder of all
25 members would be unfeasible and impractical. The membership of the
26 entire class is unknown to Plaintiff at this time; however, the class is
27 estimated to be greater than one hundred (100) individuals and the
28 identity of such membership is readily ascertainable by inspection of

Defendants' employment records.

- (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all class members as demonstrated herein.
- (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that she has an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.
- (d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.
- (e) Public Policy Considerations: Employers in the State of California violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers might damage their future endeavors through negative references and/or other means. Class

actions provide the class members who are not named in the complaint with a type of anonymity that allows for the vindication of their rights while simultaneously protecting their privacy.

FIRST CAUSE OF ACTION

Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime (Against all Defendants)

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

67. California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC 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.”

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

69. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and class members 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) for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

70. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and class members 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.

71. California Labor Code section 510 codifies the right to overtime compensation

1 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
2 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
3 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
4 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
5 in a day on the seventh (7th) day of work.

6 72. During the relevant time period, Defendants willfully failed to pay all overtime
7 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
8 class members were not paid overtime premiums for all of the hours they worked in excess of
9 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
10 hours in a week, because all hours worked were not recorded.

11 73. First, Defendants implemented, on a company-wide basis, an employer-
12 imposed requirement that Plaintiff and class members undergo mandatory COVID-19 health
13 screenings and/or temperature checks before their scheduled shifts. For example, prior to
14 clocking in for the start of each shift, Plaintiff was required to wait several minutes in a long
15 line of employees to have her temperature checked by her supervisor. Even though
16 Defendants required these health screenings, Defendants did not provide Plaintiff and class
17 members a mechanism to record this time worked so they could be compensated for the time
18 spent undergoing mandatory health-screenings and/or temperature checks.

19 74. Further, during the relevant time period, Defendants only provided Plaintiff and
20 class members with two (2) access points to their timekeeping system, but the machines
21 frequently malfunctioned, thus exacerbating the amount of time Plaintiff and class members
22 waited in line off-the-clock and under Defendants' control, time for which they were not paid.
23 For example, Plaintiff would report to work at the start of her scheduled shift but would be
24 required to wait at least several minutes in a long line of employees from all departments to
25 clock in (after having waited to have her temperature checked).

26 75. Second, on information and belief, Defendants had, and continue to have, a
27 company-wide policy and/or practice of understaffing their locations strictly based on a labor
28 budget set by the corporate office while assigning heavy workloads and productivity

1 expectations. Defendants' use of a labor budget resulted in chronic understaffing, such that
2 there were too few employees on duty to handle the workload and provide uninterrupted meal
3 period coverage. Defendants also had a practice of failing to schedule meal periods, which
4 further caused Plaintiff and class members to not be relieved of their duties for compliant
5 meal periods. For example, Plaintiff would miss her meal periods entirely and/or her meal
6 periods would be interrupted and cut short by her supervisors holding company meetings and
7 production goals and trainings during employees' meal periods. In addition, class members
8 would be required to respond to work-related inquiries from supervisors or managers on
9 company-issued radios during their meal periods, further resulting in their meal periods being
10 cut-short and/or interrupted. As a result, Plaintiff and class members had their meal periods
11 cut short or interrupted and/or missed meal periods in order to handle their heavy workloads,
12 but were not compensated for this time.

13 76. Third, because Defendants frowned upon employees accruing meal period
14 penalties, on information and belief, Defendants altered and/or adjusted employee time
15 records to reflect compliant meal periods, regardless of whether they had received a compliant
16 meal period or not, in order to strictly limit meal penalties that Defendants would otherwise
17 owe. For example, during the pay period on or about 06/15/2020 to 06/20/2020, Plaintiff was
18 owed eight (8) hours in meal period premiums due to Defendant's failure to provide compliant
19 meal periods however, she was only paid for one (1) meal period premium according to her
20 wage statement corresponding to that pay period. Thus, Plaintiff and class members
21 performed work during meal periods for which they were not paid.

22 77. Fourth, Defendants maintained a company-wide on-premises meal period
23 policy, which mandated that Plaintiff and class members remain on Defendants' premises
24 during their meal periods. Because Plaintiff and class members were restricted from leaving
25 the premises during meal periods, they were denied the ability to use their meal periods freely
26 for their own purposes, such as running personal errands. Thus, Defendants effectively
27 maintained control over Plaintiff and class members during their unpaid meal periods.

28 78. Defendants knew or should have known that as a result of these company-wide

1 practices and/or policies, Plaintiff and class members were performing their assigned duties
2 off-the-clock and/or during meal periods, and were suffered or permitted to perform work for
3 which they were not paid. Because Plaintiff and class members worked shifts of eight (8)
4 hours a day or more or forty (40) hours a week or more, some of this off-the-clock work
5 qualified for overtime premium pay. Therefore, Plaintiff and class members were not paid
6 overtime wages for all of the overtime hours they actually worked.

7 79. Furthermore, Defendants did not pay Plaintiff and class members the correct
8 overtime rate for the recorded overtime hours that they generated. In addition to an hourly
9 wage, Defendants paid Plaintiff and class members incentive pay, nondiscretionary bonuses,
10 and/or other forms of remuneration. However, in violation of the California Labor Code,
11 Defendants failed to incorporate all compensation, including incentive pay, nondiscretionary
12 bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for
13 purposes of calculating the overtime wage rate. Therefore, during times when Plaintiff and
14 class members worked overtime and received these other forms of pay, Defendants failed to
15 pay all overtime wages by paying a lower overtime rate than required.

16 80. Specifically, Defendants paid Plaintiff and class members incentive pay and/or
17 nondiscretionary bonuses which were listed on Plaintiff's and class members' wage
18 statements as "Misc Camp", "Bonus", "Mgmt Bonus", "Pay for Perf", and "Special Gift",
19 among others. On information and belief, "Misc Camp" was a nondiscretionary bonus for
20 employees who referred new hires; "Bonus" was a nondiscretionary bonus given to employees
21 who did not sustain work-related injuries during a 3-month period; "Pay for Perf" was a
22 nondiscretionary bonus program for employees for their performance and punctuality; and
23 "Mgmt Bonus" and "Special Gift" were also various nondiscretionary bonus programs for
24 employees. During pay periods that Plaintiff and class members were paid overtime wages,
25 Defendants did not incorporate the nondiscretionary bonuses and/or incentive pay into
26 Plaintiff's and class members' regular rate of pay and, as a result, paid them at incorrect and
27 lower rates of pay for overtime hours worked. Specifically, Defendants paid Plaintiff and
28 class members 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay.

Defendants’ failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Plaintiff and class members on a company-wide basis.

81. Defendants’ failure to pay Plaintiff and class members the balance of overtime compensation as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys’ fees.

SECOND CAUSE OF ACTION

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid Minimum Wages (Against all Defendants)

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

83. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 1-2001 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, § 11010(2)(G) (defining “Hours Worked”).

84. As set forth above, during the relevant time period, Defendants had a company-wide practice and/or policy of failing to pay Plaintiff and class members for actual hours worked, because these hours were not recorded, such as requiring Plaintiff and class members to undergo health screenings and/or temperature checks off-the-clock and waiting to clock-in at an inadequate number of timekeeping machines. Additionally, as stated, due to Defendants’ uniform practices of utilizing labor budgets, understaffing while assigning heavy workloads with productivity expectations and goals, failing to schedule meal periods,

1 requiring employees to stay on the work premises during unpaid meal periods, and/or
2 requiring employees to respond to company-issued radios at all times, Plaintiff and class
3 members were impeded from taking all uninterrupted meal periods to which they were entitled
4 and forced to forego meal periods and/or had their meal periods cut short and/or interrupted by
5 work. Moreover, Defendants systematically failed to pay Plaintiff and class members for
6 actual hours worked during unpaid meal periods because these hours were not always
7 correctly recorded and/or employees' time records were altered or adjusted to show compliant
8 meal periods, when in fact, compliant meal periods were not provided.

9 85. Defendants did not pay minimum wages for all hours worked by Plaintiff and
10 class members. To the extent that these off-the-clock hours did not qualify for overtime
11 premium payment, Defendants did not pay at least minimum wages for those hours worked
12 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
13 1198.

14 86. Defendants' failure to pay Plaintiff and class members minimum wages violates
15 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
16 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover
17 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

18 **THIRD CAUSE OF ACTION**

19 **Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period**

20 **Violations**

21 **(Against all Defendants)**

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

24 88. At all relevant times herein set forth, California Labor Code section 512(a)
25 provides that an employer may not require, cause, or permit an employee to work for a period
26 of more than five (5) hours per day without providing the employee with a meal period of not
27 less than thirty (30) minutes, except that if the total work period per day of the employee is
28 not more than six (6) hours, the meal period may be waived by mutual consent of both the

1 employer and the employee. Under California law, first meal periods must start after no more
2 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

3 89. At all relevant times herein set forth, California Labor Code sections 226.7,
4 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
5 meal period mandated by an applicable order of the IWC.

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

13 91. As stated, Defendants had, and continue to have, a company-wide policy and/or
14 practice of understaffing locations while simultaneously assigning heavy workloads and
15 productivity goals, which has resulted in a lack of meal period coverage and prevented
16 Plaintiff and class members from taking all timely meal periods to which they were entitled.
17 Additionally, Defendants had a company-wide policy of not scheduling meal periods which
18 further prevented Plaintiff and class members from taking all timely, uninterrupted thirty (30)
19 minute meal periods. For example, as stated, Plaintiff's supervisors would hold trainings and
20 productivity goal meetings at the same time that Plaintiff and class members were to take their
21 meal periods, causing Plaintiff's and class members' meal periods to be interrupted and
22 significantly shortened. Moreover, as stated, class members would be interrupted on their
23 radios by work-related inquiries from their managers or supervisors during their meal periods,
24 and had their meal periods cut short as a result. As a result of Defendants' practices and/or
25 policies, Plaintiff and class members had their meal periods interrupted and/or shortened, and
26 were therefore not provided with compliant, uninterrupted thirty (30) minute meal periods to
27 which they were entitled

28 92. Additionally, as set forth above, Defendants maintained and implemented a

1 company-wide on-premises meal period policy, which mandated that Plaintiff and class
2 members remain on the work premises during their meal periods. Because Plaintiff and class
3 members were restricted from leaving the premises during meal periods, they were denied the
4 ability to use their meal periods freely for their own purposes. Thus, Defendants effectively
5 maintained control over Plaintiff and class members during meal periods.

6 93. Moreover, as stated, because Defendants frowned upon employees accruing
7 meal period penalties, Defendants' management would adjust and/or alter Plaintiff's and class
8 members' time records to reflect compliant meal periods, regardless of whether they had
9 received a compliant meal period, in order to strictly limit meal penalties that would need to
10 be paid by Defendants. For example, during the pay period 06/15/2020 to 06/21/2020,
11 Plaintiff earned eight (8) hours in meal period premiums due to missing meal periods and/or
12 not having been provided with compliant meal periods however, she was only paid for one (1)
13 meal period premium according to her corresponding wage statement for that pay period.

14 94. Furthermore, on information and belief, during the relevant time period,
15 Defendants had, and continue to have, a company-wide policy and/or practice of not providing
16 Plaintiff and/or class members with second 30-minute meal periods on days that they worked
17 in excess of ten (10) hours in one day. Plaintiff and class members did not sign valid meal
18 period waivers on days that they were entitled to meal periods and were not relieved of all
19 duties for such meal periods.

20 95. Moreover, Defendants had a company-wide policy of requiring all newly hired
21 employees to sign blanket meal period waivers at or near their time of hire. Defendants took
22 the position that non-exempt, hourly paid employees had waived their rights to first and
23 second meal periods for the entirety of their employment and, on that basis, did not provide
24 them with all meal periods to which they were entitled. Moreover, Defendants' meal period
25 waiver form requires employees provide written notification should they wish to revoke the
26 waiver. Defendants' presumption that first meal periods would not be provided for shifts in
27 excess of five (5) hours but less than six (6) hours, and second meal periods would not be
28 provided for shifts in excess of ten (10) hours but less than twelve (12) hours due to company-

1 wide use of blanket meal period waivers signed at or near the time of hire, and imposition on
2 employees to revoke the waivers in writing, discouraged and impeded Plaintiff and class
3 members from taking all meal periods to which they were entitled.

4 96. Furthermore, an employer's obligation to provide a meal period is only
5 "triggered" when the employer "employs an employee for a work period of more than five
6 hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits
7 anyone to work for a full five hours, its meal break obligation is triggered.").

8 [A]fter the meal break obligation is triggered . . . an employer is put to a
9 choice: it must (1) afford an off-duty meal period; (2) consent to a
10 mutually agreed-upon waiver if one hour or less will end the shift; or (3)
11 obtain written agreement to an on-duty meal period if circumstances
12 permit. Failure to do one of these will render the employer liable for
13 premium pay.

14 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). Further, under
15 Labor Code section 512(a) and the applicable IWC Wage Order, employees may waive their
16 second meal periods only if they took their first meal period. That Defendants require
17 Plaintiff and class members to sign meal period waivers simultaneously at or near their time
18 of hire (as opposed to on a specific work day) renders them invalid and unenforceable,
19 because Defendants' obligation to provide Plaintiff and class members with meal periods did
20 not arise until they had employed them for a full five (5) hours.

21 97. At all times herein mentioned, Defendants knew or should have known that, as
22 a result of these policies, Plaintiff and class members were prevented from being relieved of
23 all duties and required to perform some of their assigned duties during meal periods.
24 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
25 members meal period premiums when meal periods were missed, interrupted, shortened,
26 and/or late.

27 98. Furthermore, Defendants engaged in a company-wide practice and/or policy of
28 not paying all meal period premiums owed when compliant meal periods are not provided.
Because of this practice and/or policy, Plaintiff and class members have not received premium
pay for missed, interrupted, and/or late meal periods. Alternatively, to the extent that

1 Defendants did pay Plaintiff and class members premium pay for missed, late, and interrupted
2 meal periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
3 premiums because Defendants systematically failed to include all forms of compensation,
4 such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the
5 regular rate of pay. As a result, Defendants failed to provide Plaintiff and class members
6 compliant meal periods in violation of California Labor Code sections 226.7, 512(a), and 516
7 and failed to pay the full meal period premiums due.

8 99. Defendants' conduct violates the applicable IWC Wage Order, and California
9 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
10 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
11 rate of compensation for each work-day that the meal period was not provided.

12 **FOURTH CAUSE OF ACTION**

13 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 14 **(Against all Defendants)**

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

17 101. At all relevant times herein set forth, the applicable IWC Wage Order and
18 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff and class
19 members' employment by Defendants.

20 102. At all relevant times, the applicable IWC Wage Order provides that "[e]very
21 employer shall authorize and permit all employees to take rest periods, which insofar as
22 practicable shall be in the middle of each work period" and that the "rest period time shall be
23 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
24 hours or major fraction thereof" unless the total daily work time is less than three and one-half
25 (3 ½) hours.

26 103. At all relevant times, California Labor Code section 226.7 provides that no
27 employer shall require an employee to work during any rest period mandated by an applicable
28 order of the California IWC. To comply with its obligation to authorize and permit rest

1 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
2 employer must “relinquish any control over how employees spend their break time, and
3 relieve their employees of all duties—including the obligation that an employee remain on
4 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
5 *Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and
6 California Labor Code section 226.7(c), Plaintiff and class members are entitled to recover
7 from Defendants one (1) additional hour of pay at their regular rates of pay for each work day
8 that a required rest period was not authorized and permitted.

9 104. During the relevant time period, Defendants regularly failed to authorize and
10 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
11 period worked or major fraction thereof. As with meal periods, Defendants’ company-wide
12 practices, including utilizing labor budgets, and understaffing while assigning heavy
13 workloads and productivity goals, prevented Plaintiff and class members from being relieved
14 of all duty to take rest periods. Additionally, Defendants failed to schedule rest periods,
15 which, coupled with Defendants’ failure to provide adequate rest period coverage, further led
16 to Plaintiff and class members not being authorized and permitted to take compliant rest
17 periods. Further, on information and belief, class members had their rest periods cut short or
18 interrupted by their supervisors or managers calling them on their radios during their rest
19 period regarding work-related inquiries.

20 105. Furthermore, Defendants maintained and implemented a company-wide on-
21 premises rest period policy, which mandated that Plaintiff and class members remain on the
22 work premises during their rest periods. Because Plaintiff and class members were restricted
23 from leaving Defendants’ work premises during rest periods, they were denied the ability to
24 use their rest periods freely for their own purposes, such as running personal errands. Thus,
25 Defendants effectively maintained control over Plaintiff and class members during rest
26 periods.

27 106. As a result of Defendants’ practices and policies, Plaintiff and class members
28 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without

1 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
2 Plaintiff's and class members' rest periods were interrupted and shortened by their supervisors
3 holding meetings during rest periods to discuss production goals and methods.

4 107. Defendants have also engaged in a company-wide practice and/or policy of not
5 paying all rest period premiums owed when compliant rest periods are not authorized and
6 permitted. Because of this practice and/or policy, Plaintiff and class members have not
7 received premium pay for all missed rest periods. Alternatively, to the extent that Defendants
8 did pay Plaintiff and class members one (1) additional hour of premium pay for missed rest
9 periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
10 premiums because Defendants failed to include all forms of compensation, such as incentive
11 pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.
12 As a result, Defendants denied Plaintiff and class members rest periods and failed to pay them
13 rest period premiums due, in violation of California Labor Code section 226.7, 516, and the
14 applicable IWC Wage Order.

15 108. Defendants' conduct violates the applicable IWC Wage Order and California
16 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
17 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
18 compensation for each work day that a compliant rest period was not authorized and
19 permitted.

20 **FIFTH CAUSE OF ACTION**

21 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 22 **Statements and Failure to Maintain Accurate Payroll Records** 23 **(Against all Defendants)**

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

26 110. At all relevant times herein set forth, California Labor Code section 226(a)
27 provides that every employer shall furnish each of his or her employees an accurate and
28 complete itemized wage statement in writing, including, but not limited to, the name and

1 address of the legal entity that is the employer, the inclusive dates of the pay period, total
2 hours worked, and all applicable rates of pay.

3 111. At all relevant times, Defendants have knowingly and intentionally provided
4 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
5 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members
6 that fail to correctly list: gross wages earned; total hours worked; net wages earned; the
7 address of the legal entity that is the employer; and all applicable hourly rates in effect during
8 the pay period, including rates of pay for overtime wages, sick leave pay, and/or meal and rest
9 period premiums, and the corresponding number of hours worked at each hourly rate.
10 Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and
11 226(a)(9).

12 112. Because Defendants did not record the time Plaintiff and Subclass members
13 spent working off-the-clock and deducted time from their records for meal periods that were
14 interrupted and/or missed (and therefore time for which they should have been paid),
15 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff
16 and Subclass members in compliance with section 226(a)(1) and section 226(a)(5),
17 respectively. For the same reason, Defendants failed to accurately list the total number of
18 hours worked by Plaintiff and Subclass members, in violation of section 226(a)(2), and failed
19 to list the applicable hourly rates of pay in effect during the pay period and the corresponding
20 accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

21 113. Further, because Defendants did not calculate Plaintiff's and Subclass
22 members' regular rate of pay correctly for purposes of paying overtime wages, sick leave pay,
23 and/or meal and rest period premiums, Defendants did not list the correct amount of gross
24 wages in compliance with section 226(a)(1). For the same reason, Defendants failed to list the
25 correct amount of net wages in violation of section 226(a)(5). Defendants also failed to
26 correctly list all applicable hourly rates in effect during the pay period, namely, correct rates
27 of pay for overtime wages, sick leave pay, and/or meal and rest premiums, in violation of
28 section 226(a)(9).

114. Additionally, and separate from these violations, Defendants issued uniform wage statements to Plaintiff and Subclass members that failed to correctly list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. Plaintiff's and Subclass members' wage statements incorrectly list the employer's address as "30977 San Antonio St., Hayward, CA 94544", but, according to the California Secretary of State's website, Defendants' entity address should be "1 Hormel Place, Austin, MN 55912."

115. The wage statement deficiencies also include, among other things, 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 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 of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

116. 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. During the relevant time period, Defendants failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Plaintiff and Subclass members, in violation of section 1198. Also, as stated, Defendants engaged in a company-wide practice and/or policy

1 of falsifying Plaintiff's and Subclass members' time records by recording that compliant meal
2 periods were taken regardless of if or when meal periods were actually taken, and thereby
3 failed to keep accurate records of meal start and end times for Plaintiff and Subclass members.
4 Furthermore, in light of Defendants' failure to provide Plaintiff and/or Subclass members with
5 second 30-minute meal periods to which they were entitled, Defendants kept no records of
6 meal start and end times for second meal periods.

7 117. California Labor Code section 1174(d) provides that "[e]very person employing
8 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
9 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
10 plants or establishments at which employees are employed, payroll records showing the hours
11 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
12 applicable piece rate paid to, employees employed at the respective plants or
13 establishments. . . ." At all relevant times, and in violation of Labor Code section 1174(d),
14 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
15 members showing the daily hours they worked and the wages paid thereto as a result of failing
16 to record the off-the-clock hours that they worked.

17 118. Plaintiff and Subclass members are entitled to recover from Defendants the
18 greater of their actual damages caused by Defendants' failure to comply with California Labor
19 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
20 employee.

21 **SIXTH CAUSE OF ACTION**

22 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid**

23 **Upon Termination**

24 **(Against all Defendants)**

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

27 120. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
28 that if an employer discharges an employee, the wages earned and unpaid at the time of

1 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
2 her employment, his or her wages shall become due and payable not later than seventy-two
3 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
4 his or her intention to quit, in which case the employee is entitled to his or her wages at the
5 time of quitting.

6 121. For example, Plaintiff last date of work was February 5, 2021. However, that
7 same day, Defendants only provided Plaintiff received with a paycheck that included the
8 wages due to due her from her prior pay period, and not the incentive pay and bonus payments
9 owed to her. Upon information and belief, Defendants have, and continue to have, a policy
10 and/or practice of withholding incentive pay and/or bonus payments owed to former
11 employees and did not issue Plaintiff's bonus payment until nearly a month after her
12 resignation. Thus, Defendants failed to pay Plaintiff her final wages immediately, in violation
13 of Labor Code section 201.

14 122. Additionally, Defendants willfully failed to pay Plaintiff and class members
15 who are no longer employed by Defendants the earned and unpaid wages set forth above,
16 including but not limited to, overtime wages, minimum wages, meal and rest period
17 premiums, sick leave pay, vested vacation wages, and/or reporting time pay, either at the time
18 of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

19 123. Defendants' failure to pay Plaintiff and class members who are no longer
20 employed by Defendants their wages earned and unpaid at the time of discharge, or within
21 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
22 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
23 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
24 thirty (30) day maximum pursuant to California Labor Code section 203.

25 ///

26 ///

27 ///

28 ///

SEVENTH CAUSE OF ACTION
Violation of California Labor Code § 204—Failure to Timely Pay Wages During
Employment
(Against all Defendants)

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

125. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, and/or meal and rest period premiums that were not timely paid to Plaintiff and those class members.

126. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

127. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth (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 first (1st) and the tenth (10th) day of the following month.

128. At all times relevant herein, Labor Code section 204 provides 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, at all times relevant herein, 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.

129. During the relevant time period, Defendants willfully failed to pay Plaintiff and class members all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or reporting time pay, within the time

1 periods specified by California Labor Code section 204.

2 130. Defendants' failure to pay Plaintiff and class members all wages due violates
3 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
4 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

5 **EIGHTH CAUSE OF ACTION**

6 **Violation of California Labor Code §§ 551, 552, and 558—Failure to Provide One Day's**

7 **Rest in Seven**

8 **(Against all Defendants)**

9 131. Plaintiff incorporates by reference and re-allege as if fully stated herein each
10 and every allegation set forth above.

11 132. At all relevant times herein, California Labor Code section 551 provides that
12 every person employed in any occupation of labor is entitled to one day's rest in seven.
13 Additionally, California Labor Code section 552 prohibits employers from requiring
14 employees to work more than six consecutive days without a day of rest.

15 133. At all relevant times herein set forth, California Labor Code section 556
16 exempts an employer from the day-of-rest requirement when the total hours worked by an
17 employee do not exceed 30 hours in any week or six hours in any one day thereof.

18 134. Labor Code section 558(a) provides "[a]ny employer or other person acting on
19 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
20 provision regulating hours and days of work in any order of the Industrial Welfare
21 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
22 dollars (\$50) for each underpaid employee for each pay period for which the employee was
23 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
24 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
25 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
26 to any other civil or criminal penalty provided by law."

27 135. During the relevant time period, Defendants scheduled Plaintiff and class
28 members to work six (6) or more hours per day and more than seven (7) consecutive days in a

1 workweek. For example, Plaintiff worked ten (10) consecutive days from 06/24/2019 to
2 07/03/2019 and eight (8) or more hours per day. Because Plaintiff and class members worked
3 over 30 hours per week and over six (6) hours per day in a workweek, they were not exempt
4 from the day-of-rest requirement. To the extent that Plaintiff and class members may have
5 signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

6 136. Thus, during the relevant time period, and in violation of Labor Code sections
7 551 and 552, Defendants willfully caused Plaintiff and class members to work more than six
8 days in seven. Plaintiff and class members are therefore entitled to recover civil penalties
9 pursuant to Labor Code section 558.

10 **NINTH CAUSE OF ACTION**

11 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

12 **VIOLATION OF LABOR CODE SECTION 2802**

13 137. At all times herein set forth, California Labor Code section 2802 provides that
14 an employer must reimburse employees for all necessary expenditures and losses incurred by
15 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
16 to prevent employers from passing off their cost of doing business and operating expenses on
17 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
18 (2014). The applicable wage order, IWC Wage Order 1-2001, provides that: "[w]hen tools or
19 equipment are required by the employer or are necessary to the performance of a job, such
20 tools and equipment shall be provided and maintained by the employer, except that an
21 employee whose wages are at least two (2) times the minimum wage provided herein may be
22 required to provide and maintain hand tools and equipment customarily required by the trade
23 or craft."

24 138. During the relevant time period, Defendants, on a company-wide basis,
25 required Plaintiff and class members to wear safety devices and safeguards, such as protective
26 eyewear and rubber boots, to keep them safe in the workplace. Defendants required
27 employees to wear certain safety devices while working, but only provided employees with
28 one (1) pair each of protective eyewear and rubber boots when they were hired. These items

1 were subject to getting lost and/or damaged through normal wear and tear, but Defendants did
2 not provide Plaintiff and class members with replacement items, instead forcing Plaintiff and
3 class members to purchase items that needed to be replaced. For example, Defendants
4 required Plaintiff and class members to purchase replacement items when their safety goggles
5 broke and their rubber boots wore out, and failed to reimburse Plaintiff and class members for
6 these costs.

7 139. Defendants could have provided Plaintiff and class members with the actual
8 equipment for use on the job, including company phones, protective eyewear, and rubber
9 boots, to be used for fulfilling work-related tasks, or reimbursed employees for their costs of
10 cellular phone usage and replacement protective equipment. Instead, Defendants passed these
11 operating costs off onto Plaintiff and class members. At all relevant times, Plaintiff did not
12 earn at least two (2) times the minimum wage.

13 140. Defendants' company-wide policy and/or practice of passing on their operating
14 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
15 have intentionally and willfully failed to reimburse Plaintiff and other class members for
16 necessary business-related expenses and costs.

17 141. Plaintiff and class members are entitled to recover from Defendants their
18 business-related expenses incurred during the course and scope of their employment, plus
19 interest.

20 **TENTH CAUSE OF ACTION**

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

22 **(Against all Defendants)**

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

25 143. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
26 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
27 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
28 227.3, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code

1 section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties
2 for violations of those Labor Code sections not found in section 2699.5, including sections
3 246, 450, 516, and 1182.12.

4 144. Defendants' conduct, as alleged herein, violates numerous sections of the
5 California Labor Code, including, but not limited to, the following:

- 6 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
7 Wage Order for Defendants' failure to compensate Plaintiff and other
8 aggrieved employees with all required overtime pay, as alleged herein;
- 9 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
10 1198, and the applicable IWC Wage Order for Defendants' failure to
11 compensate Plaintiff and other aggrieved employees with at least
12 minimum wages for all hours worked, as alleged herein;
- 13 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
14 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
15 and other aggrieved employees with meal periods, as alleged herein;
- 16 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
17 applicable IWC Wage Order for Defendants' failure to authorize and
18 permit Plaintiff and other aggrieved employees to take rest periods, as
19 alleged herein;
- 20 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
21 IWC Wage Order for failure to provide accurate and complete wage
22 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 23 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
24 IWC Wage Order for failure to maintain payroll records, as alleged
25 herein;
- 26 (a) Violation of Labor Code section 227.3 for failure to pay all vested
27 vacation wages upon termination to other aggrieved employees as set
28 forth below;

- 1 (g) Violation of Labor Code section 204 for failure to pay all earned wages
2 during employment to Plaintiff and other aggrieved employees, as
3 alleged herein;
- 4 (h) Violation of Labor Code sections 201 and 202 for failure to pay Plaintiff
5 and other aggrieved employees all earned wages upon termination, as
6 alleged herein;
- 7 (i) Violation of Labor Code section 246 for failure to provide written notice
8 of sick leave benefits to Plaintiff and other aggrieved employees, and
9 failure to properly calculate the sick leave paid to other aggrieved
10 employees, as set forth below;
- 11 (j) Violation of Labor Code section 450 for compelling and/or coercing
12 Plaintiff and other aggrieved employees to patronize Defendants'
13 business, as set forth below;
- 14 (k) Violation of Labor Codes 551 and 552 for failure to provide one day's
15 rest in seven to Plaintiff and/or other aggrieved employees, as alleged
16 herein;
- 17 (l) Violation of Labor Code section 1198 for failing to provide suitable
18 seating to Plaintiff and/or other aggrieved employees, as set forth below;
- 19 (m) Violation of Labor Code section 1198 and the applicable IWC Wage
20 Order for failing to pay reporting time pay to Plaintiff and/or aggrieved
21 employees, as set forth below; and
- 22 (n) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
23 and other aggrieved employees for all business expenses necessarily
24 incurred, as alleged herein.

25 145. At all relevant times herein set forth, California Labor Code section 227.3
26 provides that whenever a contract of employment or employer policy provides for paid
27 vacations, and an employee is terminated without having taken his or her vested vacation
28 time, all vested vacation shall be paid to him or her as wages at his or her final rate in

1 accordance with such contract of employment or employer policy respecting eligibility or time
2 served. Vacation time vests on a pro-rata basis and, upon termination, an employee is entitled
3 to a pro rata share of vested vacation pay. An employer may not require an employee to
4 forfeit earned but unused vacation pay.

5 146. During the relevant time period, Defendants had a company-wide policy and
6 practice of failing to pay other aggrieved employees vested vacation wages that were owed to
7 them at the end of their employment, in violation of California Labor Code section 227.3.
8 Defendants' failure to pay other aggrieved employees who are no longer employed by
9 Defendants all vested vacation wages at the end of their employment caused a forfeiture of
10 vested vacation wages in violation of California Labor Code section 227.3.

11 147. Other aggrieved employees are therefore entitled to recover civil penalties
12 pursuant to Labor Code sections 2699(a), (f), and (g).

13 148. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to
14 provide employees who have worked in California for 30 or more days from the
15 commencement of employment with paid sick days, to be accrued at least one hour for every
16 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must
17 provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or
18 paid time off) in each year of the employee's employment. Codified at California Labor Code
19 sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an
20 employer must provide an employee with written notice that sets forth the amount of paid sick
21 leave available, or paid time off that an employer provides in lieu of sick leave, for use on
22 either the employee's itemized wage statement or in a separate written statement provided on
23 the designated pay date with the employee's wages. Further, Labor Code section 246(l)
24 provides that an employer shall calculate paid sick leave by using one of two calculations: 1)
25 "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the
26 regular rate of pay for the workweek in which the employee uses paid sick time, whether or
27 not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for
28 nonexempt employees shall be calculated by dividing the employee's total wages, not

1 including overtime premium pay, by the employee's total hours worked in the full pay periods
2 of the prior 90 days of employment."

3 149. During the relevant time period, Defendants has failed to provide Plaintiff and
4 other aggrieved employees written notice on wage statements and/or other separate written
5 statements that listed the requisite information set forth in Labor Code section 246(i).
6 Defendants' ongoing and systematic failure to provide written notice of sick leave benefits to
7 Plaintiff and other aggrieved employees violates California Labor Code section 246(i).

8 150. Moreover, during the relevant time period, Defendants did not pay other
9 aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly
10 wage, Defendants paid Plaintiff and other aggrieved employees incentive pay,
11 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
12 California Labor Code, Defendants failed to incorporate all remunerations, including incentive
13 pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for
14 purposes of calculating the sick leave rate. Therefore, during times when other aggrieved
15 employees took sick leave and received these other forms of pay, Defendants failed to pay all
16 sick leave benefits by paying a lower sick leave rate than required.

17 151. Specifically, Defendants paid other aggrieved employees sick leave based on
18 their hourly rate of pay instead of their regular rate of pay. Defendants' failure to properly
19 calculate the sick leave rates of pay based on all remuneration paid has resulted in an
20 underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in
21 violation of California Labor Code section 246(l).

22 152. Plaintiff and other aggrieved employees are therefore entitled to recover civil
23 penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

24 153. At all relevant times herein, California Labor Code section 1198 makes it
25 illegal to employ an employee under conditions of labor that are prohibited by the applicable
26 wage order. California Labor Code section 1198 requires that "... the standard conditions of
27 labor fixed by the commission shall be the ... standard conditions of labor for employees.
28 The employment of any employee ... under conditions of labor prohibited by the order is

1 unlawful.”

2 154. California Code of Regulations, Title 8, section 11010 subdivision 14(B)
3 (“Subdivision 14(B)”) provides that “[w]hen employees are not engaged in the active duties of
4 their employment and the nature of the work requires standing, an adequate number of
5 suitable seats shall be placed in reasonable proximity to the work area and employees shall be
6 permitted to use such seats when it does not interfere with the performance of their duties.”

7 155. During the relevant time period, Defendants violated Subdivision 14(B)
8 because Plaintiff and/or other aggrieved employees were not allowed to sit, even during lulls
9 in their work duties, nor were they provided with suitable seats in reasonable proximity to
10 their work areas.

11 156. Defendants’ California locations are generally similar in their layout and design
12 and there was, and continues to be, space near work areas (with reasonable or no modification
13 to these work areas) to allow for the presence and use of a seat or stool by Plaintiff and/or
14 other aggrieved employees during lulls in operation. Defendants could provide Plaintiff
15 and/or other aggrieved employees with a seat or stool in its work areas, but instead denies
16 employees seating and forces other aggrieved employees to stand throughout the day.

17 157. Defendants did not provide Plaintiff and/or other aggrieved employees with
18 seats or stools in reasonable proximity to their work areas to allow them to use seats when it
19 would not interfere with the performance of their duties for times when they were not engaged
20 in active duties that require standing. In other words, to the extent Plaintiff and/or other
21 aggrieved employees engaged in duties in which the nature of the work required standing,
22 Defendants denied them the use of seats nearby during lulls in their work duties. Moreover,
23 Defendants did not inform Plaintiff and/or other aggrieved employees of their rights to a seat
24 or stool under California law.

25 158. As a result of Defendants’ company-wide policy and/or practice of prohibiting
26 employees from sitting at any time, even when they were not engaged in active duties
27 requiring standing, and company-wide failure to provide seats in reasonable proximity to their
28 work areas, Plaintiff and/or other aggrieved employees were forced to stand during shifts and

1 denied seats.

2 159. Plaintiff and/or other aggrieved employees are therefore entitled to recover civil
3 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

4 160. California Labor Code section 1198 makes it illegal to employ an employee
5 under conditions of labor that are prohibited by the applicable wage order. California Labor
6 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
7 shall be the . . . standard conditions of labor for employees. The employment of any employee
8 . . . under conditions of labor prohibited by the order is unlawful.”

9 161. California Code of Regulations, Title 8, section 11010(5)(A) provides that
10 “[e]ach workday an employee is required to report for work and does report, but is not put to
11 work or is furnished less than half said employee’s usual or scheduled day’s work, the
12 employee shall be paid for half the usual or scheduled day’s work, but in no event for less
13 than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which
14 shall not be less than the minimum wage.” The “primary purpose of the reporting time
15 regulation” is “to guarantee at least partial compensation for employees who report to work
16 expecting to work a specified number of hours, and who are deprived of that amount because
17 of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch*
18 *Cellular*, 209 Cal. App. 4th 556 (2012).

19 162. During the relevant time period, Defendants violated California Labor Code
20 section 1198 and California Code of Regulations, Title 8, section 11010(5)(A), because
21 Defendants failed to pay Plaintiff and/or other aggrieved employees reporting time pay when
22 they reported to work for their scheduled shift but were put to work for less than half of the
23 regular schedule. When this occurred, Defendants did not properly pay Plaintiff and/or other
24 aggrieved employees for at least half of their scheduled day’s work or the minimum reporting
25 time pay.

26 163. Accordingly, Plaintiff and/or other aggrieved employees were not properly
27 compensated with reporting time pay in violation of California Labor Code section 1198 and
28 California Code of Regulations, Title 8, section 11010 subdivision 5(A). Plaintiff and/or other

1 aggrieved employees are therefore entitled to recover civil penalties pursuant to Labor Code
2 sections 2699(a), (f), and (g).

3 **ELEVENTH CAUSE OF ACTION**

4 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

5 **Unlawful Business Practices**

6 **(Against all Defendants)**

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

9 165. Defendants are “persons” as defined by California Business & Professions
10 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
11 and/or associations.

12 166. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
13 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
14 suffered injury in fact and has lost money as a result of Defendants’ unlawful business
15 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
16 meaning of Code of Civil Procedure section 1021.5.

17 167. Defendants’ activities, as alleged herein, are violations of California law, and
18 constitute unlawful business acts and practices in violation of California Business &
19 Professions Code sections 17200, *et seq.*

20 168. A violation of California Business & Professions Code sections 17200, *et seq.*
21 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
22 policies and practices have violated state law in at least the following respects:

- 23 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
24 class members, to work overtime without paying them proper
25 compensation in violation of California Labor Code sections 510 and
26 1198, and the applicable IWC Wage Order, and paying Plaintiff and
27 class members overtime at a lower rate than required by law by failing
28 to properly calculate the regular rate of pay for purposes of overtime, as

1 alleged herein;

2 (b) Failing to pay at least minimum wage to Plaintiff and class members in
3 violation of California Labor Code sections 1182.12, 1194, 1197,
4 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
5 herein;

6 (c) Failing to provide uninterrupted meal periods to Plaintiff and class
7 members in violation of California Labor Code sections 226.7, 512(a),
8 516, and 1198, and the applicable IWC Wage Order, as alleged herein;

9 (d) Failing to authorize and permit Plaintiff and class members to take
10 uninterrupted rest periods in violation of California Labor Code sections
11 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged
12 herein;

13 (e) Failing to provide Plaintiff and class members with accurate wage
14 statements and failing to maintain accurate payroll records in violation
15 of California Labor Code sections 226(a), 1174(d), and 1198, and the
16 applicable IWC Wage Order, as alleged herein;

17 (f) Failing to timely pay all earned wages to Plaintiff and class members in
18 violation of California Labor Code section 204, as alleged herein;

19 (g) Failing to provide written notice of paid sick leave benefits available in
20 violation of California Labor Code section 246, as set forth below;

21 (h) Compelling and/or coercing Plaintiff and class members to patronize
22 Defendants' business in violation of California Labor Code section 450,
23 as set forth below;

24 (i) Failing to provide one day's rest in seven to Plaintiff and class members
25 in violation of California Labor Code sections 551 and 552, as alleged
26 herein; and

27 (j) Failing to reimburse Plaintiff and class members for all business
28 expenses necessarily incurred in violation of California Labor Code

1 sections 2802, as alleged herein.

2 169. California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to
3 provide employees who have worked in California for 30 or more days from the
4 commencement of employment with paid sick days, to be accrued at least one hour for every
5 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must
6 provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or
7 paid time off) in each year of the employee's employment. Codified at California Labor Code
8 sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an
9 employer must provide an employee with written notice that sets forth the amount of paid sick
10 leave available, or paid time off that an employer provides in lieu of sick leave, for use on
11 either the employee's itemized wage statement or in a separate written statement provided on
12 the designated pay date with the employee's wages. The penalties described in this article for
13 a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226.

14 170. During the relevant time period, Defendants failed, on a company-wide basis,
15 to provide Plaintiff and class members written notice on wage statements and/or other separate
16 written statements that listed the requisite information set forth in Labor Code section 246(i).
17 Defendants' ongoing and systematic failure to provide written notice of sick leave benefits to
18 Plaintiffs and class members violates California Labor Code section 246(i).

19 171. California Labor Code section 450 provides that an employer may not "compel
20 or coerce any employee, or applicant for employment, to patronize his or her employer, or any
21 other person, in the purchase of anything of value." An employer violates section 450 by
22 forcing an employee to patronize the employer's business in the purchase of a company-
23 provided good.

24 172. Defendants had a company-wide policy of requiring employees to purchase
25 safety devices, including personal protection equipment, directly from the company. On
26 information and belief, Plaintiff and class members were required to pay for replacement
27 safety devices, including protective eyewear and rubber boots. For example, as stated,
28 Defendants required employees to wear certain safety devices while working, but only

1 provided Plaintiff and class members with one (1) pair of safety goggles and rubber boots
2 each. These items were subject to getting lost and/or damaged through normal wear and tear,
3 but Defendants did not provide Plaintiff and class members with replacement items, instead
4 forcing them to purchase replacements directly from Defendants. For example, during her
5 employment, Plaintiff's safety goggles broke and her rubber boots wore out, and Defendants
6 only permitted her to purchase replacement items from Defendants through a payroll
7 deduction plan.

8 173. Defendants' conduct of compelling and/or coercing Plaintiff and class members
9 to purchase goods from them is in violation of California Labor Code section 450.

10 174. As a result of the violations of California law herein described, Defendants
11 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
12 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
13 herein.

14 175. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
15 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
16 Defendants during a period that commences four years prior to the filing of this complaint; a
17 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
18 class members; and an award of attorneys' fees pursuant to California Code of Civil
19 Procedure section 1021.5 and other applicable laws; and an award of costs.

20 **TWELFTH CAUSE OF ACTION**

21 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

22 **Unfair Business Practices**

23 **(Against all Defendants)**

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

26 177. Defendants are "persons" as defined by California Business & Professions
27 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
28 and/or associations.

178. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants' unfair business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5. Defendants' activities, namely Defendants' company-wide practice and/or policy of not paying Plaintiff and class members meal and rest period premiums due to them under Labor Code section 226.7, deprived Plaintiff and class members of the compensation guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a "dual-purpose" remedy intended primarily to compensate employees, and secondarily to shape employer conduct." *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiff and class members as part of their employment with Defendants, and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

179. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants' policies and practices have violated the spirit of California's meal and rest period laws and constitute acts against the public policy behind these laws.

180. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by section 226.7 due to Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

1 **PRAYER FOR RELIEF**

2 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
3 against Defendants, jointly and severally, as follows:

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

7 **Class Certification**

8 2. That this case be certified as a class action;

9 3. That Plaintiff be appointed as the representative of the Class and Subclass;

10 4. That counsel for Plaintiff be appointed as class counsel.

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

12 5. That the Court declare, adjudge, and decree that Defendants violated California
13 Labor Code sections 510 and 1198 and the applicable IWC Wage Order by willfully failing to
14 pay all overtime wages due to Plaintiff and class members;

15 6. For general unpaid wages at overtime wage rates and such general and special
16 damages as may be appropriate;

17 7. For pre-judgment interest on any unpaid overtime compensation commencing
18 from the date such amounts were due, or as otherwise provided by law;

19 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
20 California Labor Code section 1194(a); and

21 9. For such other and further relief as the Court may deem equitable and
22 appropriate.

23 **As to the Second Cause of Action**

24 10. That the Court declare, adjudge and decree that Defendants violated California
25 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage
26 Order by willfully failing to pay minimum wages to Plaintiff and class members;

27 11. For general unpaid wages and such general and special damages as may be
28 appropriate;

1 12. For pre-judgment interest on any unpaid compensation from the date such
2 amounts were due, or as otherwise provided by law;

3 13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
4 California Labor Code section 1194(a);

5 14. For liquidated damages pursuant to California Labor Code section 1194.2; and

6 15. For such other and further relief as the Court may deem equitable and
7 appropriate.

8 **As to the Third Cause of Action**

9 16. That the Court declare, adjudge, and decree that Defendants violated California
10 Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order by
11 willfully failing to provide all meal periods to Plaintiff and class members;

12 17. That the Court make an award to the Plaintiff and class members of one (1)
13 hour of pay at each employee's regular rate of pay for each workday that a meal period was
14 not provided;

15 18. For all actual, consequential, and incidental losses and damages, according to
16 proof;

17 19. For premiums pursuant to California Labor Code section 226.7(c);

18 20. For pre-judgment interest on any unpaid meal period premiums from the date
19 such amounts were due, or as otherwise provided by law;

20 21. For attorneys' fees pursuant to California Code of Civil Procedure section
21 1021.5, or as otherwise provided by law; and

22 22. For such other and further relief as the Court may deem equitable and
23 appropriate.

24 **As to the Fourth Cause of Action**

25 23. That the Court declare, adjudge and decree that Defendants violated California
26 Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully
27 failing to authorize and permit Plaintiff and class members to take all rest periods;

28 24. That the Court make an award to the Plaintiff and class members of one (1) hour

1 of pay at each employee's regular rate of pay for each workday that a rest period was not
2 authorized and permitted;

3 25. For all actual, consequential, and incidental losses and damages, according to
4 proof;

5 26. For premiums pursuant to California Labor Code section 226.7(c);

6 27. For pre-judgment interest on any unpaid rest period premiums from the date
7 such amounts were due, or as otherwise provided by law;

8 28. For attorneys' fees pursuant to California Code of Civil Procedure section
9 1021.5, or as otherwise provided by law; and

10 29. For such other and further relief as the Court may deem equitable and
11 appropriate.

12 **As to the Fifth Cause of Action**

13 30. That the Court declare, adjudge and decree that Defendants violated the
14 recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC
15 Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate
16 itemized wage statements thereto;

17 31. For all actual, consequential, and incidental losses and damages, according to
18 proof;

19 32. For injunctive relief pursuant to California Labor Code section 226(h);

20 33. For statutory penalties pursuant to California Labor Code section 226(e);

21 34. For attorneys' fees and costs pursuant to California Labor Code section
22 226(e)(1); and

23 35. For such other and further relief as the Court may deem equitable and
24 appropriate.

25 **As to the Sixth Cause of Action**

26 36. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
28 meal and rest period premiums, sick leave pay, vested vacation wages, and/or reporting time

1 pay owed at the time of termination of the employment of Plaintiff and other terminated class
2 members;

3 37. For all actual, consequential and incidental losses and damages, according to
4 proof;

5 38. For waiting time penalties according to proof pursuant to California Labor
6 Code section 203 for all employees who have left Defendants' employ;

7 39. For pre-judgment interest on any unpaid wages from the date such amounts
8 were due, or as otherwise provided by law;

9 40. For attorneys' fees pursuant to California Code of Civil Procedure section
10 1021.5, or as otherwise provided by law; and

11 41. For such other and further relief as the Court may deem equitable and
12 appropriate.

13 **As to the Seventh Cause of Action**

14 42. That the Court declare, adjudge and decree that Defendants violated California
15 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
16 overtime wages, minimum wages, meal and rest period premiums, sick leave pay, and/or
17 reporting time pay during their employment;

18 43. For all actual, consequential and incidental losses and damages, according to
19 proof;

20 44. For statutory penalties according to proof pursuant to California Labor Code
21 section 210;

22 45. For pre-judgment interest on any unpaid wages from the date such amounts
23 were due, or as otherwise provided by law;

24 46. For attorneys' fees pursuant to California Code of Civil Procedure section
25 1021.5, or as otherwise provided by law; and

26 47. For such other and further relief as the Court may deem equitable and
27 appropriate.

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As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 551 and 552 by failing to provide a day’s rest in seven; and that Defendants committed said violations of the Labor Code against Plaintiff and class members;
49. For civil penalties for conduct occurring any time between one year prior to the filing of this complaint and judgment, pursuant to California Labor Code section 558;
50. For pre-judgment and post-judgment interest as provided by law; and
51. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

52. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiff and class members;
53. For unpaid business-related expenses and such general and special damages as may be appropriate;
54. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;
55. For all actual, consequential, and incidental losses and damages, according to proof;
56. For attorneys’ fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and
57. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

58. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other aggrieved employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and

1 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
2 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
3 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
4 earned wages upon termination); 204 (by failing to timely pay all earned wages during
5 employment); 227.3 (by failing to pay vested vacation wages); 246 (by failing to properly
6 calculate sick leave rates of pay and provide written notice of sick leave benefits); 1198 and
7 the applicable IWC Wage Order (by failing to provide suitable seating); 1198 and the
8 applicable IWC Wage Order (by failing to pay reporting time pay); and 2802 (by failing to
9 reimburse business expenses);

10 59. For civil penalties pursuant to California Labor Code sections 210, 226.3,
11 248.5, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor
12 Code sections 201, 202, 204, 226(a), 226.7, 227.3, 246, 450, 510, 512(a), 516, 551, 552,
13 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

14 60. For attorneys' fees and costs pursuant to California Labor Code section
15 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California
16 Labor Code sections 201, 202, 204, 226(a), 226.7, 227.3, 246, 450, 510, 512(a), 516, 551,
17 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

18 61. For pre-judgment and post-judgment interest as provided by law; and

19 62. For such other and further relief as the Court may deem equitable and
20 appropriate.

21 **As to the Eleventh Cause of Action**

22 63. That the Court declare, adjudge and decree that Defendants' conduct of failing
23 to provide Plaintiff and class members all overtime wages due to them, failing to provide
24 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
25 class members all meal periods, failing to authorize and permit Plaintiff and class members to
26 take all rest periods, failing to provide Plaintiff and class members accurate and complete
27 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,
28 failing to timely pay Plaintiff and class members all earned wages during employment, failing

1 to provide Plaintiff and class members with written notice of sick leave benefits available,
2 compelling and/or coercing Plaintiff and class members to patronize Defendants' business,
3 failing to provide one day's rest in seven, and failing to reimburse Plaintiff and class members
4 for business-related expenses, constitutes an unlawful business practice in violation of
5 California Business and Professions Code sections 17200, *et seq.*;

6 64. For restitution of unpaid wages to Plaintiff and all class members and
7 prejudgment interest from the day such amounts were due and payable;

8 65. For the appointment of a receiver to receive, manage, and distribute any and all
9 funds disgorged from Defendants and determined to have been wrongfully acquired by
10 Defendants as a result of violations of California Business & Professions Code sections
11 17200, *et seq.*;

12 66. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
13 California Code of Civil Procedure section 1021.5; and

14 67. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 **As to the Twelfth Cause of Action**

17 68. That the Court declare, adjudge and decree that Defendants' conduct of denying
18 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
19 an unfair business practice in violation of California Business and Professions Code sections
20 17200, *et seq.*;

21 69. For restitution of the statutory benefits under section 226.7 unfairly withheld
22 from Plaintiff and class members and prejudgment interest from the day such amounts were
23 due and payable;

24 70. For the appointment of a receiver to receive, manage, and distribute any and all
25 funds disgorged from Defendants and determined to have been wrongfully acquired by
26 Defendants as a result of violations of California Business & Professions Code sections
27 17200, *et seq.*;

28 71. For reasonable attorneys' fees and costs of suit incurred herein pursuant to

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California Code of Civil Procedure section 1021.5;
72. For pre-judgment and post-judgment interest as provided by law; and
73. For such other and further relief as the Court may deem equitable and appropriate.

Dated: November 29, 2021

Respectfully submitted,
Capstone Law APC

By: Roxanna Tabatabaeepour
Orlando Villalba
Helga Hakimi
Roxanna Tabatabaeepour
Attorneys for Plaintiff Gelin Turcios Toledo

EXHIBIT “1”

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

August 6, 2021

VIA ONLINE SUBMISSION

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

Subject: *Gelin Turcios Toledo v. Columbus Manufacturing, Inc., et al.*

Dear PAGA Administrator:

This office represents Gelin Turcios Toledo in connection with her claims under the California Labor Code. Ms. Turcios Toledo was an employee of COLUMBUS MANUFACTURING, INC.; HORMEL FOODS CORPORATION; HORMEL FOODS INTERNATIONAL CORPORATION; HORMEL FOODS CORPORATE SERVICES, LLC; HORMEL FOODS OPERATIONS, LLC; and/or HORMEL FOODS SALES, LLC. For the purpose of this letter, Ms. Turcios Toledo collectively refers to these entities as “COLUMBUS.”

The employers may be contacted directly at the addresses below:

COLUMBUS MANUFACTURING, INC.
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS CORPORATE SERVICES, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS OPERATIONS, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS INTERNATIONAL
CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS SALES, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

Ms. Turcios Toledo 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. Turcios Toledo seeks relief on behalf of herself, the State of California, and other persons who are or were employed by COLUMBUS as a non-exempt, hourly paid employee in California 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.

COLUMBUS employed Ms. Turcios Toledo as an hourly paid, non-exempt employee from approximately May 2019 to February 2021. Ms. Turcios Toledo worked for COLUMBUS as a Production Employee at its location in Hayward, California. During her employment, Ms. Turcios Toledo typically worked eight (8) to nine (9) hours or more per day, five (5) to six (6) days per week. Ms. Turcios Toledo was compensated approximately \$16.50 per hour at the time her employment ended. Her job duties included, without limitation, peeling fermented casings from salami; cutting, separating, and placing salami into large bins; and weighing salami to prepare it for the packaging department.

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

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

COLUMBUS MANUFACTURING, INC.; HORMEL FOODS CORPORATION; and HORMEL FOODS INTERNATIONAL CORPORATION are Delaware corporations while HORMEL FOODS CORPORATE SERVICES, LLC and HORMEL FOODS SALES, LLC are Delaware limited liability companies; and HORMEL FOODS OPERATIONS, LLC is a Minnesota limited liability company. Together, they manufacture and market premium deli meat and salami and high-quality, brand-name food and meat products in the United States and globally, and operate several locations in California, including at least two locations in Hayward, California. Upon information and belief, COLUMBUS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Austin, Minnesota for all non-exempt, hourly paid employees working for COLUMBUS in California, including Ms. Turcios Toledo and other aggrieved employees. At all relevant times, COLUMBUS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Turcios Toledo and other aggrieved employees, regardless of its location or position.

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

¹ These facts, theories, and claims are based on Ms. Turcios Toledo’s experience and counsel’s review of those records currently available relating to Ms. Turcios Toledo’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. Turcios Toledo 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.

formulas when calculating wages due to Ms. Turcios Toledo 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 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.

COLUMBUS willfully failed to pay all overtime wages owed to Ms. Turcios Toledo and other aggrieved employees. During the relevant time period, Ms. Turcios Toledo 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, COLUMBUS implemented, on a company-wide basis, an employer-imposed requirement that Ms. Turcios Toledo and other aggrieved employees undergo mandatory COVID-19 health screenings and/or temperature checks before their scheduled shifts. For example, prior to clocking in for the start of each shift, Ms. Turcios Toledo was required to wait 5-10 minutes in a long line of employees to have her temperature checked by her supervisor. Even though COLUMBUS required these health screenings, COLUMBUS did not provide Ms. Turcios Toledo and other aggrieved employees a mechanism to record this time so they could be compensated for the time spent undergoing mandatory health-screenings and/or temperature checks. Further, during the relevant time period, COLUMBUS only provided Ms. Turcios Toledo and other aggrieved employees with two (2) access points to its timekeeping system, but the machines frequently malfunctioned, thus exacerbating the amount of time Ms. Turcios Toledo and other aggrieved employees waited in line off-the-clock and under COLUMBUS’s control, time for which they were not paid. For example, Ms. Turcios Toledo would report to work at the start of her scheduled shift but would be required to wait at least 5-10 minutes in a long line of employees from all departments to clock in (after having waited 5-10 minutes to have her temperature checked).

Second, on information and belief, COLUMBUS had, and continue to have, a company-wide policy and/or practice of understaffing its locations strictly based on a labor budget set by the corporate office while assigning heavy workloads and productivity expectations. COLUMBUS’s use of a labor budget resulted in chronic understaffing, such that there were too few employees on duty to handle the workload and provide uninterrupted meal period coverage. COLUMBUS also had a practice of failing to schedule meal periods, which further caused Ms. Turcios Toledo and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, at least once per week, Ms. Turcios Toledo would miss her meal periods entirely and/or her meal periods would be interrupted and cut short by her supervisors holding company meetings and production goals and trainings during employees’ meal periods. In addition, other aggrieved employees would be required to respond to work-related inquiries from supervisors or managers on company-issued radios during their meal periods, further resulting in their meal periods being cut-short and/or interrupted. As a

result, Ms. Turcios Toledo and other aggrieved employees had their meal periods cut short or interrupted and/or missed meal periods in order to handle their heavy workloads, but were not compensated for this time.

Third, because COLUMBUS frowned upon employees accruing meal period penalties, on information and belief, COLUMBUS altered and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that COLUMBUS would otherwise owe. For example, during the pay period on or about 06/15/2020 to 06/20/2020, Ms. Turcios Toledo was owed eight (8) hours in meal period premiums due to COLUMBUS's failure to provide compliant meal periods however, she was only paid for one (1) meal period premium according to her wage statement corresponding to that pay period. Thus, Ms. Turcios Toledo and other aggrieved employees performed work during meal periods for which they were not paid.

Fourth, COLUMBUS maintained a company-wide on-premises meal period policy, which mandated that Ms. Turcios Toledo and other aggrieved employees remain on COLUMBUS's premises during their meal periods. Because Ms. Turcios Toledo and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, COLUMBUS effectively maintained control over Ms. Turcios Toledo and other aggrieved employees during their meal periods.

COLUMBUS knew or should have known that as a result of these company-wide practices and/or policies, Ms. Turcios Toledo and other aggrieved employees were performing assigned duties off-the-clock during meal periods and/or before and after their shifts, and were suffered or permitted to perform work for which they were not paid. Because Ms. Turcios Toledo 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. Therefore, Ms. Turcios Toledo and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

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

Specifically, COLUMBUS paid Ms. Turcios Toledo and other aggrieved employees incentive pay and/or nondiscretionary bonuses which were listed on Ms. Turcios Toledo's and other aggrieved employees' wage statements as "Misc Camp", "Bonus", "Mgmt Bonus", "Pay for Perf", and "Special Gift", among others. On information and belief, "Misc Camp" was a nondiscretionary bonus for employees who referred new hires; "Bonus" was a nondiscretionary bonus given to employees who did not sustain work-related injuries during a 3-month period; "Pay for Perf" was a nondiscretionary bonus program for employees for their performance and punctuality; and "Mgmt Bonus" and "Special Gift" were also various nondiscretionary bonus programs for employees. During pay

periods that Ms. Turcios Toledo and other aggrieved employees were paid overtime wages, COLUMBUS did not incorporate the nondiscretionary bonuses and/or incentive pay into Ms. Turcios Toledo's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, COLUMBUS paid Ms. Turcios Toledo and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. COLUMBUS's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Ms. Turcios Toledo and other aggrieved employees on a company-wide basis.

COLUMBUS's failure to pay Ms. Turcios Toledo 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. Turcios Toledo 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. 1-2001 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, § 11010(2)(G) (defining "Hours Worked").

As set forth above, during the relevant time period, COLUMBUS had a company-wide practice and/or policy of failing to pay Ms. Turcios Toledo and other aggrieved employees for actual hours worked, because these hours were not recorded, such as requiring Ms. Turcios Toledo and other aggrieved employees to undergo health screenings and/or temperature checks off-the-clock and waiting to clock-in due to an inadequate number of timekeeping machines. Additionally, as stated, due to COLUMBUS's uniform practices of utilizing labor budgets, understaffing while assigning heavy workloads with productivity expectations and goals, failing to schedule meal periods, and requiring employees to stay on the work premises during unpaid meal periods, Ms. Turcios Toledo and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and forced to forego meal periods and/or had their meal periods cut short and/or interrupted by work. As stated, other aggrieved employees' meal periods were further cut short and/or interrupted as a result of having to respond to work-related inquiries from their supervisors or managers on company-issued radios during their meal periods. Moreover, COLUMBUS systematically failed to pay Ms. Turcios Toledo and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded and/or employees' time records were altered or adjusted to show compliant meal periods, when in fact, compliant meal periods were not provided.

Thus, COLUMBUS did not pay at least minimum wages for all hours worked by Ms. Turcios Toledo and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, COLUMBUS 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, COLUMBUS regularly failed to pay at least minimum wages to Ms. Turcios

Toledo 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. Turcios Toledo 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.

During the relevant time period, as stated, COLUMBUS had, and continue to have, a company-wide policy and/or practice of understaffing locations while simultaneously assigning heavy workloads and productivity goals, which has resulted in a lack of meal period coverage and prevented Ms. Turcios Toledo and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally, COLUMBUS had a company-wide policy of not scheduling meal periods, which further prevented Ms. Turcios Toledo and other aggrieved employees from taking all timely, uninterrupted thirty (30) minute meal periods. As a result of COLUMBUS's practices and/or policies, Ms. Turcios Toledo and other aggrieved employees had their meal periods interrupted and/or shortened, and were therefore not provided with compliant, uninterrupted thirty (30) minute meal periods to which they were entitled.

Additionally, as set forth above, COLUMBUS maintained and implemented a company-wide on premises meal period policy, which mandated that Ms. Turcios Toledo and other aggrieved employees remain on the work premises during their meal periods. Because Ms. Turcios Toledo and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, COLUMBUS effectively maintained control over Ms. Turcios Toledo and other aggrieved employees during meal periods.

Moreover, as stated, because COLUMBUS frowned upon employees accruing meal period penalties, COLUMBUS's management would adjust and/or alter Ms. Turcios Toledo's and other aggrieved employees' time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that would need to be paid by COLUMBUS. For example, during the pay period 06/15/2020 to 06/21/2020, Ms. Turcios Toledo

earned eight (8) hours in meal period premiums due to missing meal periods and/or not having been provided with compliant meal periods however, she was only paid for one (1) meal period premium according to her corresponding wage statement for that pay period.

COLUMBUS's practices and policies prevented Ms. Turcios Toledo and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Ms. Turcios Toledo and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted or cut short, and/or had to forgo their meal periods altogether. For example, as stated, at least once a week, Ms. Turcios Toledo's supervisors would hold trainings and productivity goal meetings at the same time that Ms. Turcios Toledo and other aggrieved employees were to take their meal period, causing employees' meal periods to be interrupted and significantly shortened in duration by up to 15 minutes per instance, effectively causing Ms. Turcios Toledo and other aggrieved employees to miss half of their meal period. Moreover, as stated, other aggrieved employees would be interrupted on their radios by work-related inquiries from their managers or supervisors during their meal periods, and had their meal periods cut short as a result.

Furthermore, on information and belief, during the relevant time period, COLUMBUS had, and continues to have, a company-wide policy and/or practice of not providing Ms. Turcios Toledo and/or other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. Ms. Turcios Toledo 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 for such meal periods.

Moreover, COLUMBUS had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. COLUMBUS took the position that non-exempt, hourly paid employees had waived their rights to first and second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Moreover, COLUMBUS's meal period waiver form requires employees provide written notification should they wish to revoke the waiver. COLUMBUS's presumption that first meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours, and second meal periods would not be provided for shifts in excess of ten (10) hours but less than twelve (12) hours due to company-wide use of blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Turcios Toledo and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). Further, under Labor Code section 512(a) and the applicable IWC Wage Order, employees may waive their second meal periods only if they took their first meal period. That COLUMBUS require Ms. Turcios Toledo and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because COLUMBUS's obligation to provide Ms. Turcios Toledo and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

COLUMBUS knew or should have known that as a result of its company-wide policies and/or practices, Ms. Turcios Toledo and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. COLUMBUS further knew or should have known that it did not pay Ms. Turcios Toledo and other aggrieved employees meal period premiums when meal periods were missed, late, shortened, and/or interrupted.

Furthermore, COLUMBUS 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. Turcios Toledo and other aggrieved employees have not received premium pay for missed, interrupted, and/or late meal periods. Alternatively, to the extent that COLUMBUS did pay Ms. Turcios Toledo and other aggrieved employees premium pay for missed, late, and interrupted meal periods, COLUMBUS did not pay Ms. Turcios Toledo and other aggrieved employees at the correct rate of pay for premiums because COLUMBUS 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, COLUMBUS failed to provide Ms. Turcios Toledo and other aggrieved employees compliant meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198 and failed to pay the full meal period premiums due. Ms. Turcios Toledo 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 §§ 226.7, 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, COLUMBUS regularly failed to authorize and permit Ms. Turcios Toledo 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, COLUMBUS’s company-wide practices, including utilizing labor budget, and understaffing while assigning heavy workloads and productivity goals, prevented Ms. Turcios Toledo and other aggrieved employees from being relieved of all duty to take compliant rest periods. COLUMBUS also failed to schedule rest periods, which, coupled with COLUMBUS’s failure to provide adequate rest period coverage, further led to Ms. Turcios Toledo and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, COLUMBUS maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Turcios Toledo and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Turcios Toledo and other aggrieved employees were restricted from leaving COLUMBUS’s 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, COLUMBUS effectively maintained control over Ms. Turcios Toledo and other aggrieved employees during rest periods.

As a result of COLUMBUS’s practices and policies, Ms. Turcios Toledo 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, at least twice per week, Ms. Turcios Toledo’s and other aggrieved employees’ rest periods were interrupted and shortened by their supervisors holding meetings during rest periods to discuss production goals and methods. Further, on information and belief, other aggrieved employees had their rest periods cut short or interrupted by their supervisors or managers calling them on their radios during their rest period regarding work-related inquiries.

COLUMBUS 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 and permitted. Because of this practice and/or policy, Ms. Turcios Toledo and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that COLUMBUS did pay Ms. Turcios Toledo and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, COLUMBUS did not pay Ms. Turcios Toledo and other aggrieved employees at the correct rate of pay for premiums because COLUMBUS 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, COLUMBUS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Turcios Toledo 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. COLUMBUS has not provided Ms. Turcios Toledo 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 wages 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, COLUMBUS has knowingly and intentionally provided Ms. Turcios Toledo and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, COLUMBUS issued uniform wage statements to Ms. Turcios Toledo 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 rates of pay for overtime wages, paid sick leave, and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, COLUMBUS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because COLUMBUS did not record the time Ms. Turcios Toledo and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), COLUMBUS did not list the correct amount of gross wages and net wages earned by Ms. Turcios Toledo and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, COLUMBUS failed to accurately list the total number of hours worked by Ms. Turcios Toledo 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).

Further, because COLUMBUS did not calculate Ms. Turcios Toledo's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, paid sick leave and/or meal and rest period premiums, COLUMBUS did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). COLUMBUS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, paid sick leave, and/or meal and rest premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, 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 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 the hours they 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), COLUMBUS willfully failed to maintain accurate payroll records for Ms. Turcios Toledo 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. During the relevant time period, COLUMBUS failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Ms. Turcios Toledo and other aggrieved employees, in violation of section 1198. As stated, COLUMBUS engaged in a company-wide practice and/or policy of falsifying Ms. Turcios Toledo’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Turcios Toledo and other aggrieved employees. Furthermore, in light of COLUMBUS’s failure to provide Ms. Turcios Toledo and/or other aggrieved employees with second 30-minute meal periods to which they were entitled, COLUMBUS kept no records of meal start and end times for second meal periods.

Because COLUMBUS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Turcios Toledo 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. Turcios Toledo 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. Turcios Toledo 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, COLUMBUS failed to pay Ms. Turcios Toledo and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Ms. Turcios Toledo 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 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 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.

For example, Ms. Turcios Toledo's last date of work was February 5, 2021. However, that same day, COLUMBUS only provided Ms. Turcios Toledo with a paycheck that included the wages due to her from her prior pay period, and not the incentive pay and bonus payments owed to her. Upon information and belief, COLUMBUS has, and continue to have, a policy and/or practice of withholding incentive pay and/or bonus payments owed to former employees and did not issue Ms. Turcios Toledo's bonus payment until nearly a month after her resignation. Thus, COLUMBUS failed to pay Ms. Turcios Toledo her final wages immediately, in violation of California Labor Code section 201.

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

Ms. Turcios Toledo 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 § 246 – Unpaid Sick Leave and Failure to Provide Written Notice of Paid Sick Leave

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, COLUMBUS has failed to provide Ms. Turcios Toledo and other aggrieved employees written notice on wage statements and/or other separate written statements that listed the requisite information set forth in Labor Code section 246(i). COLUMBUS's ongoing and systematic failure to provide written notice of sick leave benefits to Ms. Turcios Toledo and other aggrieved employees violates California Labor Code section 246(i).

Moreover, during the relevant time period, COLUMBUS did not pay other aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly wage, COLUMBUS paid Ms. Turcios Toledo and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, COLUMBUS 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 sick leave rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, COLUMBUS failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, COLUMBUS paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay. COLUMBUS's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of California Labor Code section 246(l).

Ms. Turcios Toledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(f)-(g).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor

Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

During the relevant time period, on information and belief, COLUMBUS scheduled Ms. Turcios Toledo and/or other aggrieved employees to work six (6) or more hours per day and more than seven (7) consecutive days in a workweek. Because Ms. Turcios Toledo and/or other aggrieved employees worked over 30 hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Ms. Turcios Toledo and/or other aggrieved employees may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

Thus, COLUMBUS caused Ms. Turcios Toledo and/or other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Ms. Turcios Toledo and/or 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 § 1198 and California Code of Regulations Title 8, Section 11010 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 11010 subdivision (14)(A) provides that “[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.” California Code of Regulations, Title 8, section 11010 subdivision 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.*

COLUMBUS's California locations are generally similar in their layout and design and there was, and continues to be, space near 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. Turcios Toledo and/or other aggrieved employees during lulls in operation. COLUMBUS could provide Ms. Turcios Toledo and/or other aggrieved employees with a seat or stool in its work areas, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

COLUMBUS did not provide Ms. Turcios Toledo and/or 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. Turcios Toledo and/or other aggrieved employees engaged in duties in which the nature of the work required standing, COLUMBUS denied them the use of seats nearby during lulls in their work duties. Moreover, COLUMBUS did not inform Ms. Turcios Toledo and/or other aggrieved employees of their rights to a seat or stool under California law.

As a result of COLUMBUS'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. Turcios Toledo and/or other aggrieved employees were forced to stand during shifts and denied seats. COLUMBUS's failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 1-2001, subdivision 14(B).

Ms. Turcios Toledo and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring COLUMBUS 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 § 1198 and California Code of Regulations Title 8, Section 11010 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further 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 11010 subdivision 5(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, COLUMBUS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010 subdivision 5(A), because COLUMBUS failed to pay Ms. Turcios Toledo and/or other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day's work. When this occurred, COLUMBUS did not properly pay Ms. Turcios Toledo and/or other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay. Accordingly, Ms. Turcios Toledo and/or other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010 subdivision 5(A).

Ms. Turcios Toledo and/or 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.” COLUMBUS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Turcios Toledo’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Turcios Toledo 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. Turcios Toledo, 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 COLUMBUS for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 246, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

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

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: COLUMBUS MANUFACTURING, INC. (via U.S. Certified Mail); HORMEL FOODS CORPORATION (via U.S. Certified Mail); HORMEL FOODS INTERNATIONAL CORPORATION (via U.S. Certified Mail); HORMEL FOODS CORPORATE SERVICES, LLC (via U.S. Certified Mail); HORMEL FOODS OPERATIONS, LLC (via U.S. Certified Mail); HORMEL FOODS SALES, LLC. (via U.S. Certified Mail)

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one
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Postage \$ 1.63 Total Postage and Fees \$ 8.08	
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9590 9402 1512 5362 2496 42

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1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2496 59

2. Article Number (Transfer from service label)

7020 1290 0001 8879 3450

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X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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Domestic Return Receipt

HORMEL FOODS INTERNATIONAL CORPORATION
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- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

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Street and Apt. No. 1 HORMEL PLACE

City, State, ZIP+4® AUSTIN, MN 55912

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Turcios Toledo

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HORMEL FOODS OPERATIONS, LLC
1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2496 66

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B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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Total Postage and Fees

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Turcios Toledo v.
Hormel Foods Operations,
LLC

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one
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Park East, Ste 1000
CA 90067



HORMEL FOODS CORPORATION
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AUSTIN, MN 55912

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9590 9402 1512 5362 2496 73

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A. Signature

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- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
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3. Service Type

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Total Postage and Fees

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Hormel Foods
Corporation

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1. Article Addressed to:
HORMEL FOODS CORPORATE SERVICES,
LLC
1 HORMEL PLACE
AUSTIN, MN 55912



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2. Article Number (Transfer from service label)

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A. Signature

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☐ Addressee

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C. Date of Delivery

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3. Service Type

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- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

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LLC

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City, State, ZIP+4®

AUSTIN, MN 55912

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Turcios Toledo V.
Hormel Foods Corp.
Services LLC

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Postage \$ 1.63 Total Postage and Fees \$ 8.08	
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1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2496 97

2. Article Number (Transfer from service label)

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A. Signature

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- ☐ Agent
- ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
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3. Service Type

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9590 9402 1512 5362 2496 97

2. Article Number (Transfer from service label)

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A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
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3. Service Type

- ☐ Adult Signature
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2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Terry Nelson*☒ Agent☐ Addressee

B. Received by (Printed Name)

TERRY NELSON

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
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- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
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1 HORMEL PLACE
AUSTIN, MN 55912

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2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

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A. Signature

X *Terry Nelson*☒ Agent☐ Addressee

B. Received by (Printed Name)

TERRY NELSON

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

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- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
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- ☐ Collect on Delivery
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- ☐ Insured Mail Restricted Delivery over \$500

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1. Article Addressed to:

HORMEL FOODS SALES, LLC

1 HORMEL PLACE
AUSTIN, MN 55912

9590 9402 1512 5362 2496 42

2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Terry Nelson*☒ Agent☐ Addressee

B. Received by (Printed Name)

TERRY NELSON

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
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1. Article Addressed to:

HORMEL FOODS CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2496 73

2. Article Number (Transfer from service label)

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Terry Nelson

☒ Agent

☐ Addressee

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TERRY NELSON

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EXHIBIT “2”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

August 31, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/310>)

Subject: *Gelin Turcios Toledo v. Columbus Manufacturing, Inc., et al.*
LWDA Case No. LWDA-CM-840596-21 – AMENDED NOTICE

Dear PAGA Administrator:

This office represents Gelin Turcios Toledo in connection with her claims under the California Labor Code. Ms. Turcios Toledo was an employee of COLUMBUS MANUFACTURING, INC.; HORMEL FOODS CORPORATION; HORMEL FOODS INTERNATIONAL CORPORATION; HORMEL FOODS CORPORATE SERVICES, LLC; HORMEL FOODS OPERATIONS, LLC; and/or HORMEL FOODS SALES, LLC. For the purpose of this letter, Ms. Turcios Toledo collectively refers to these entities as “COLUMBUS.” We previously provided notice of Ms. Turcios Toledo’s claims to the California Labor and Workforce Development Agency (“LWDA”) on August 6, 2021, and submitted the applicable filing fee pursuant to Labor Code section 2699.3(a)(1)(B). This amended notice supplements Ms. Turcios Toledo’s prior LWDA notice and is intended to clarify the facts and theories supporting her claims.

The employers may be contacted directly at the addresses below:

COLUMBUS MANUFACTURING, INC.
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS CORPORATE SERVICES, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS OPERATIONS, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS INTERNATIONAL
CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912

HORMEL FOODS SALES, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

Ms. Turcios Toledo 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. Turcios Toledo seeks relief on behalf of herself, the State of California, and other persons who are or were employed by COLUMBUS as a non-exempt, hourly paid employee in California 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.

COLUMBUS employed Ms. Turcios Toledo as an hourly paid, non-exempt employee from approximately May 2019 to February 2021. Ms. Turcios Toledo worked for COLUMBUS as a Production Employee at its location in Hayward, California. During her employment, Ms. Turcios Toledo typically worked eight (8) to nine (9) hours or more per day, five (5) to six (6) days per week. Ms. Turcios Toledo was compensated approximately \$16.50 per hour at the time her employment ended. Her job duties included, without limitation, peeling fermented casings from salami; cutting, separating, and placing salami into large bins; and weighing salami to prepare it for the packaging department.

COLUMBUS committed one or more of the following Labor Code violations against Ms. Turcios Toledo, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

COLUMBUS's Company-Wide and Uniform Payroll and HR Practices

COLUMBUS MANUFACTURING, INC.; HORMEL FOODS CORPORATION; and HORMEL FOODS INTERNATIONAL CORPORATION are Delaware corporations while HORMEL FOODS CORPORATE SERVICES, LLC and HORMEL FOODS SALES, LLC are Delaware limited liability companies; and HORMEL FOODS OPERATIONS, LLC is a Minnesota limited liability company. Together, they manufacture and market premium deli meat and salami and high-quality, brand-name food and meat products in the United States and globally, and operate several locations in California, including at least two locations in Hayward, California. Upon information and belief, COLUMBUS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Austin, Minnesota for all non-exempt, hourly paid employees working for COLUMBUS in California, including Ms. Turcios Toledo and other aggrieved employees. At all relevant times, COLUMBUS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Turcios Toledo and other aggrieved employees, regardless of its location or position.

Upon information and belief, COLUMBUS maintains a centralized Payroll department at its corporate headquarters in Austin, Minnesota, which processes payroll for all non-exempt, hourly paid employees working for COLUMBUS in California, including Ms. Turcios Toledo and other

¹ These facts, theories, and claims are based on Ms. Turcios Toledo's experience and counsel's review of those records currently available relating to Ms. Turcios Toledo'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. Turcios Toledo 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.

aggrieved employees. Further, COLUMBUS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Turcios Toledo and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, COLUMBUS utilized the same methods and formulas when calculating wages due to Ms. Turcios Toledo 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 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.

COLUMBUS willfully failed to pay all overtime wages owed to Ms. Turcios Toledo and other aggrieved employees. During the relevant time period, Ms. Turcios Toledo 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, COLUMBUS implemented, on a company-wide basis, an employer-imposed requirement that Ms. Turcios Toledo and other aggrieved employees undergo mandatory COVID-19 health screenings and/or temperature checks before their scheduled shifts. For example, prior to clocking in for the start of each shift, Ms. Turcios Toledo was required to wait 5-10 minutes in a long line of employees to have her temperature checked by her supervisor. Even though COLUMBUS required these health screenings, COLUMBUS did not provide Ms. Turcios Toledo and other aggrieved employees a mechanism to record this time so they could be compensated for the time spent undergoing mandatory health-screenings and/or temperature checks. Further, during the relevant time period, COLUMBUS only provided Ms. Turcios Toledo and other aggrieved employees with two (2) access points to its timekeeping system, but the machines frequently malfunctioned, thus exacerbating the amount of time Ms. Turcios Toledo and other aggrieved employees waited in line off-the-clock and under COLUMBUS's control, time for which they were not paid. For example, Ms. Turcios Toledo would report to work at the start of her scheduled shift but would be required to wait at least 5-10 minutes in a long line of employees from all departments to clock in (after having waited 5-10 minutes to have her temperature checked).

Second, on information and belief, COLUMBUS had, and continue to have, a company-wide policy and/or practice of understaffing its locations strictly based on a labor budget set by the corporate office while assigning heavy workloads and productivity expectations. COLUMBUS's use of a labor budget resulted in chronic understaffing, such that there were too few employees on duty to handle the workload and provide uninterrupted meal period coverage. COLUMBUS also had a practice of failing to schedule meal periods, which further caused Ms. Turcios Toledo and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, at least once per week, Ms. Turcios Toledo would miss her meal periods entirely and/or her meal periods would

be interrupted and cut short by her supervisors holding company meetings and production goals and trainings during employees' meal periods. In addition, other aggrieved employees would be required to respond to work-related inquiries from supervisors or managers on company-issued radios during their meal periods, further resulting in their meal periods being cut-short and/or interrupted. As a result, Ms. Turcios Toledo and other aggrieved employees had their meal periods cut short or interrupted and/or missed meal periods in order to handle their heavy workloads, but were not compensated for this time.

Third, because COLUMBUS frowned upon employees accruing meal period penalties, on information and belief, COLUMBUS altered and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that COLUMBUS would otherwise owe. For example, during the pay period on or about 06/15/2020 to 06/20/2020, Ms. Turcios Toledo was owed eight (8) hours in meal period premiums due to COLUMBUS's failure to provide compliant meal periods however, she was only paid for one (1) meal period premium according to her wage statement corresponding to that pay period. Thus, Ms. Turcios Toledo and other aggrieved employees performed work during meal periods for which they were not paid.

Fourth, COLUMBUS maintained a company-wide on-premises meal period policy, which mandated that Ms. Turcios Toledo and other aggrieved employees remain on COLUMBUS's premises during their meal periods. Because Ms. Turcios Toledo and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes, such as running personal errands. Thus, COLUMBUS effectively maintained control over Ms. Turcios Toledo and other aggrieved employees during their meal periods.

COLUMBUS knew or should have known that as a result of these company-wide practices and/or policies, Ms. Turcios Toledo and other aggrieved employees were performing assigned duties off-the-clock during meal periods and/or before and after their shifts, and were suffered or permitted to perform work for which they were not paid. Because Ms. Turcios Toledo 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. Therefore, Ms. Turcios Toledo and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

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

Specifically, COLUMBUS paid Ms. Turcios Toledo and other aggrieved employees incentive pay and/or nondiscretionary bonuses which were listed on Ms. Turcios Toledo's and other aggrieved employees' wage statements as "Misc Camp", "Bonus", "Mgmt Bonus", "Pay for Perf", and "Special Gift", among others. On information and belief, "Misc Camp" was a nondiscretionary bonus for

employees who referred new hires; “Bonus” was a nondiscretionary bonus given to employees who did not sustain work-related injuries during a 3-month period; “Pay for Perf” was a nondiscretionary bonus program for employees for their performance and punctuality; and “Mgmt Bonus” and “Special Gift” were also various nondiscretionary bonus programs for employees. During pay periods that Ms. Turcios Toledo and other aggrieved employees were paid overtime wages, COLUMBUS did not incorporate the nondiscretionary bonuses and/or incentive pay into Ms. Turcios Toledo’s and other aggrieved employees’ regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, COLUMBUS paid Ms. Turcios Toledo and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. COLUMBUS’s failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Ms. Turcios Toledo and other aggrieved employees on a company-wide basis.

COLUMBUS’s failure to pay Ms. Turcios Toledo 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. Turcios Toledo 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. 1-2001 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, § 11010(2)(G) (defining “Hours Worked”).

As set forth above, during the relevant time period, COLUMBUS had a company-wide practice and/or policy of failing to pay Ms. Turcios Toledo and other aggrieved employees for actual hours worked, because these hours were not recorded, such as requiring Ms. Turcios Toledo and other aggrieved employees to undergo health screenings and/or temperature checks off-the-clock and waiting to clock-in due to an inadequate number of timekeeping machines. Additionally, as stated, due to COLUMBUS’s uniform practices of utilizing labor budgets, understaffing while assigning heavy workloads with productivity expectations and goals, failing to schedule meal periods, and requiring employees to stay on the work premises during unpaid meal periods, Ms. Turcios Toledo and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and forced to forego meal periods and/or had their meal periods cut short and/or interrupted by work. As stated, other aggrieved employees’ meal periods were further cut short and/or interrupted as a result of having to respond to work-related inquiries from their supervisors or managers on company-issued radios during their meal periods. Moreover, COLUMBUS systematically failed to pay Ms. Turcios Toledo and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded and/or employees’ time records were altered or adjusted to show compliant meal periods, when in fact, compliant meal periods were not provided.

Thus, COLUMBUS did not pay at least minimum wages for all hours worked by Ms. Turcios Toledo and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for

overtime premium payment, COLUMBUS 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, COLUMBUS regularly failed to pay at least minimum wages to Ms. Turcios Toledo 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. Turcios Toledo 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.

During the relevant time period, as stated, COLUMBUS had, and continue to have, a company-wide policy and/or practice of understaffing locations while simultaneously assigning heavy workloads and productivity goals, which has resulted in a lack of meal period coverage and prevented Ms. Turcios Toledo and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Additionally, COLUMBUS had a company-wide policy of not scheduling meal periods, which further prevented Ms. Turcios Toledo and other aggrieved employees from taking all timely, uninterrupted thirty (30) minute meal periods. As a result of COLUMBUS's practices and/or policies, Ms. Turcios Toledo and other aggrieved employees had their meal periods interrupted and/or shortened, and were therefore not provided with compliant, uninterrupted thirty (30) minute meal periods to which they were entitled.

Additionally, as set forth above, COLUMBUS maintained and implemented a company-wide on premises meal period policy, which mandated that Ms. Turcios Toledo and other aggrieved employees remain on the work premises during their meal periods. Because Ms. Turcios Toledo and other aggrieved employees were restricted from leaving the premises during meal periods, they were denied the ability to use their meal periods freely for their own purposes. Thus, COLUMBUS effectively maintained control over Ms. Turcios Toledo and other aggrieved employees during meal periods.

Moreover, as stated, because COLUMBUS frowned upon employees accruing meal period penalties, COLUMBUS's management would adjust and/or alter Ms. Turcios Toledo's and other aggrieved

employees' time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that would need to be paid by COLUMBUS. For example, during the pay period 06/15/2020 to 06/21/2020, Ms. Turcios Toledo earned eight (8) hours in meal period premiums due to missing meal periods and/or not having been provided with compliant meal periods however, she was only paid for one (1) meal period premium according to her corresponding wage statement for that pay period.

COLUMBUS's practices and policies prevented Ms. Turcios Toledo and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Ms. Turcios Toledo and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period, had their meal periods interrupted or cut short, and/or had to forgo their meal periods altogether. For example, as stated, at least once a week, Ms. Turcios Toledo's supervisors would hold trainings and productivity goal meetings at the same time that Ms. Turcios Toledo and other aggrieved employees were to take their meal period, causing employees' meal periods to be interrupted and significantly shortened in duration by up to 15 minutes per instance, effectively causing Ms. Turcios Toledo and other aggrieved employees to miss half of their meal period. Moreover, as stated, other aggrieved employees would be interrupted on their radios by work-related inquiries from their managers or supervisors during their meal periods, and had their meal periods cut short as a result.

Furthermore, on information and belief, during the relevant time period, COLUMBUS had, and continues to have, a company-wide policy and/or practice of not providing Ms. Turcios Toledo and/or other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. Ms. Turcios Toledo 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 for such meal periods.

Moreover, COLUMBUS had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. COLUMBUS took the position that non-exempt, hourly paid employees had waived their rights to first and second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Moreover, COLUMBUS's meal period waiver form requires employees provide written notification should they wish to revoke the waiver. COLUMBUS's presumption that first meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours, and second meal periods would not be provided for shifts in excess of ten (10) hours but less than twelve (12) hours due to company-wide use of blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Turcios Toledo and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written

agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). Further, under Labor Code section 512(a) and the applicable IWC Wage Order, employees may waive their second meal periods only if they took their first meal period. That COLUMBUS require Ms. Turcios Toledo and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because COLUMBUS's obligation to provide Ms. Turcios Toledo and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

COLUMBUS knew or should have known that as a result of its company-wide policies and/or practices, Ms. Turcios Toledo and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. COLUMBUS further knew or should have known that it did not pay Ms. Turcios Toledo and other aggrieved employees meal period premiums when meal periods were missed, late, shortened, and/or interrupted.

Furthermore, COLUMBUS 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. Turcios Toledo and other aggrieved employees have not received premium pay for missed, interrupted, and/or late meal periods. Alternatively, to the extent that COLUMBUS did pay Ms. Turcios Toledo and other aggrieved employees premium pay for missed, late, and interrupted meal periods, COLUMBUS did not pay Ms. Turcios Toledo and other aggrieved employees at the correct rate of pay for premiums because COLUMBUS 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, COLUMBUS failed to provide Ms. Turcios Toledo and other aggrieved employees compliant meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198 and failed to pay the full meal period premiums due. Ms. Turcios Toledo 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 §§ 226.7, 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, COLUMBUS regularly failed to authorize and permit Ms. Turcios Toledo 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, COLUMBUS’s company-wide practices, including utilizing labor budget, and understaffing while assigning heavy workloads and productivity goals, prevented Ms. Turcios Toledo and other aggrieved employees from being relieved of all duty to take compliant rest periods. COLUMBUS also failed to schedule rest periods, which, coupled with COLUMBUS’s failure to provide adequate rest period coverage, further led to Ms. Turcios Toledo and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, COLUMBUS maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Turcios Toledo and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Turcios Toledo and other aggrieved employees were restricted from leaving COLUMBUS’s 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, COLUMBUS effectively maintained control over Ms. Turcios Toledo and other aggrieved employees during rest periods.

As a result of COLUMBUS’s practices and policies, Ms. Turcios Toledo 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, at least twice per week, Ms. Turcios Toledo’s and other aggrieved employees’ rest periods were interrupted and shortened by their supervisors holding meetings during rest periods to discuss production goals and methods. Further, on information and belief, other aggrieved employees had their rest periods cut short or interrupted by their supervisors or managers calling them on their radios during their rest period regarding work-related inquiries.

COLUMBUS 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 and permitted. Because of this practice and/or policy, Ms. Turcios Toledo and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that COLUMBUS did pay Ms. Turcios Toledo and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, COLUMBUS did not pay Ms. Turcios Toledo and other aggrieved employees at the correct rate of pay for premiums because COLUMBUS 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, COLUMBUS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Turcios Toledo 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. COLUMBUS has not provided Ms. Turcios Toledo 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 wages 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, COLUMBUS has knowingly and intentionally provided Ms. Turcios Toledo and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, COLUMBUS issued uniform wage statements to Ms. Turcios Toledo 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 rates of pay for overtime wages, paid sick leave, and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, COLUMBUS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because COLUMBUS did not record the time Ms. Turcios Toledo and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), COLUMBUS did not list the correct amount of gross wages and net wages earned by Ms. Turcios Toledo and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, COLUMBUS failed to accurately list the total number of hours worked by Ms. Turcios Toledo 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).

Further, because COLUMBUS did not calculate Ms. Turcios Toledo's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, paid sick leave and/or meal and rest period premiums, COLUMBUS did not list the correct amount of gross wages earned by other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by other aggrieved employees in violation of section 226(a)(5). COLUMBUS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, paid sick leave, and/or meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, 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 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 the hours they 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), COLUMBUS willfully failed to maintain accurate payroll records for Ms. Turcios Toledo 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. During the relevant time period, COLUMBUS failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Ms. Turcios Toledo and other aggrieved employees, in violation of section 1198. As stated, COLUMBUS engaged in a company-wide practice and/or policy of falsifying Ms. Turcios Toledo’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Turcios Toledo and other aggrieved employees. Furthermore, in light of COLUMBUS’s failure to provide Ms. Turcios Toledo and/or other aggrieved employees with second 30-minute meal periods to which they were entitled, COLUMBUS kept no records of meal start and end times for second meal periods.

Because COLUMBUS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Turcios Toledo 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. Turcios Toledo 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. Turcios Toledo 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 § 227.3 – Failure to Pay Vested Vacation Wages

California Labor Code section 227.3 provides that if a contract of employment or employer policy provides for paid vacations and an employer terminates an employee, all vested vacation shall be paid to the employee at the employee’s final rate of pay, in accordance with such contract of

employment or employer policy respecting eligibility or time served. Vacation time vests on a pro-rata basis and, upon termination, an employee is entitled to a pro rata share of vested vacation pay. An employer may not require an employee to forfeit earned but unused vacation pay.

During the relevant time period, COLUMBUS had a company-wide policy and practice of failing to pay other aggrieved employees vested vacation wages that were owed to them at the end of their employment, in violation of California Labor Code section 227.3. COLUMBUS's failure to pay other aggrieved employees who are no longer employed by COLUMBUS all vested vacation wages at the end of their employment caused a forfeiture of vested vacation wages in violation of California Labor Code section 227.3.

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).

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

Ms. Turcios Toledo 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 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 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.

For example, Ms. Turcios Toledo's last date of work was February 5, 2021. However, that same day, COLUMBUS only provided Ms. Turcios Toledo with a paycheck that included the wages due to her from her prior pay period, and not the incentive pay and bonus payments owed to her. Upon

information and belief, COLUMBUS has, and continue to have, a policy and/or practice of withholding incentive pay and/or bonus payments owed to former employees and did not issue Ms. Turcios Toledo's bonus payment until nearly a month after her resignation. Thus, COLUMBUS failed to pay Ms. Turcios Toledo her final wages immediately, in violation of California Labor Code section 201.

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

Ms. Turcios Toledo 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 § 246 – Unpaid Sick Leave and Failure to Provide Written Notice of Paid Sick Leave

California's Healthy Workplaces, Healthy Families Act of 2014 was enacted to provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Codified at California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, section 246(i) provides that an employer must provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off that an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement or in a separate written statement provided on the designated pay date with the employee's wages. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[.]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, COLUMBUS has failed to provide Ms. Turcios Toledo and other aggrieved employees written notice on wage statements and/or other separate written statements that listed the requisite information set forth in Labor Code section 246(i). COLUMBUS's ongoing and systematic failure to provide written notice of sick leave benefits to Ms. Turcios Toledo and other aggrieved employees violates California Labor Code section 246(i).

Moreover, during the relevant time period, COLUMBUS did not pay other aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly wage, COLUMBUS paid Ms. Turcios Toledo and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, COLUMBUS 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 sick leave rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, COLUMBUS failed to pay all sick leave benefits by paying a lower sick leave rate than required.

Specifically, COLUMBUS paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay. COLUMBUS's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of California Labor Code section 246(l).

Ms. Turcios Toledo and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(f)-(g).

Violation of California Labor Code § 450 – Compelling Patronization

Labor Code section 450 provides that an employer may not “compel or coerce any employee, or applicant for employment, to patronize his or her employer, or any other person, in the purchase of anything of value.” An employer violates section 450 by forcing an employee to patronize the employer's business in the purchase of a company-provided good.

COLUMBUS had a company-wide policy of requiring employees to purchase safety devices, including personal protection equipment, directly from the company. On information and belief, Ms. Turcios Toledo and other aggrieved employees were required to pay for replacement safety devices, including protective eyewear and rubber boots. For example, COLUMBUS required employees to wear certain safety devices while working, but only provided Ms. Turcios Toledo and other aggrieved employees with one (1) pair of safety goggles and rubber boots each. These items were subject to getting lost and/or damaged through normal wear and tear, but COLUMBUS did not provide Ms. Turcios Toledo and other aggrieved employees with replacement items, instead forcing them to purchase replacements directly from COLUMBUS. For example, during her employment, Ms. Turcios Toledo's safety goggles broke and her rubber boots wore out, and COLUMBUS only permitted her to purchase replacement items from COLUMBUS through a payroll deduction plan.

COLUMBUS's conduct of compelling and/or coercing Ms. Turcios Toledo and other aggrieved employees to purchase goods from them is in violation of California Labor Code section 450. Ms. Turcios Toledo 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).

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

During the relevant time period, on information and belief, COLUMBUS scheduled Ms. Turcios Toledo and/or other aggrieved employees to work six (6) or more hours per day and more than seven (7) consecutive days in a workweek. Because Ms. Turcios Toledo and/or other aggrieved employees worked over 30 hours per week and over six (6) hours per day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that Ms. Turcios Toledo and/or other aggrieved employees may have signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

Thus, COLUMBUS caused Ms. Turcios Toledo and/or other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Ms. Turcios Toledo and/or 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 § 1198 and California Code of Regulations Title 8, Section 11010 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 11010 subdivision (14)(A) provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats." California Code of Regulations, Title 8, section 11010 subdivision 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.*

COLUMBUS's California locations are generally similar in their layout and design and there was, and continues to be, space near 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. Turcios Toledo and/or other aggrieved employees during lulls in operation. COLUMBUS could provide Ms. Turcios Toledo and/or other aggrieved employees with a seat or stool in its work areas, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

COLUMBUS did not provide Ms. Turcios Toledo and/or 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. Turcios Toledo and/or other aggrieved employees engaged in duties in which the nature of the work required standing, COLUMBUS denied them the use of seats nearby during lulls in their work duties. Moreover, COLUMBUS did not inform Ms. Turcios Toledo and/or other aggrieved employees of their rights to a seat or stool under California law.

As a result of COLUMBUS'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. Turcios Toledo and/or other aggrieved employees were forced to stand during shifts and denied seats.

COLUMBUS's failure to provide suitable seating to other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 1-2001, subdivision 14(B).

Ms. Turcios Toledo and/or other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring COLUMBUS 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 § 1198 and California Code of Regulations Title 8, Section 11010 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further 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 11010 subdivision 5(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, COLUMBUS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010 subdivision 5(A), because COLUMBUS failed to pay Ms. Turcios Toledo and/or other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day's work. When this occurred, COLUMBUS did not properly pay Ms. Turcios Toledo and/or other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay. Accordingly, Ms. Turcios Toledo and/or other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11010 subdivision 5(A).

Ms. Turcios Toledo and/or 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).

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. 1-2001, 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, COLUMBUS, had a company-wide policy of requiring other aggrieved employees to utilize their own personal cellular phones to carry out their job duties, but COLUMBUS failed to reimburse them for the costs of their work-related cellular phone expenses. For example, other aggrieved employees were required to use their personal cellular phones to complete their work-related tasks. Although COLUMBUS required other aggrieved employees to utilize their personal cellular phones to carry out their work-related duties, COLUMBUS failed to reimburse them for this cost.

Also, during the relevant time period, COLUMBUS, on a company-wide basis, required Ms. Turcios Toledo and other aggrieved employees to wear safety devices and safeguards, such as protective eyewear and rubber boots, to keep them safe in the workplace. As stated, COLUMBUS, only provided employees with one (1) pair each of protective eyewear and safety when they were hired, forcing Ms. Turcios Toledo and other aggrieved employees to purchase items that needed to be replaced, and failed to reimburse Ms. Turcios Toledo and other aggrieved employees for these costs.

COLUMBUS could have provided other aggrieved employees with the actual equipment for use on the job, including company phones, protective eyewear, and rubber boots, to be used for fulfilling work-related tasks, or reimbursed employees for their costs of cellular phone usage and replacement protective equipment. Instead, COLUMBUS passed these operating costs off onto Ms. Turcios Toledo and other aggrieved employees. At all relevant times, Ms. Turcios Toledo did not earn at least two (2) times the minimum wage.

Thus, COLUMBUS 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. Turcios Toledo and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code section 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.” COLUMBUS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Turcios Toledo’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Turcios Toledo 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. Turcios Toledo, 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 COLUMBUS for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 246, 450, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

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

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: COLUMBUS MANUFACTURING, INC. (via U.S. Certified Mail); HORMEL FOODS CORPORATION (via U.S. Certified Mail); HORMEL FOODS INTERNATIONAL CORPORATION (via U.S. Certified Mail); HORMEL FOODS CORPORATE SERVICES, LLC (via U.S. Certified Mail); HORMEL FOODS OPERATIONS, LLC (via U.S. Certified Mail); HORMEL FOODS SALES, LLC. (via U.S. Certified Mail)

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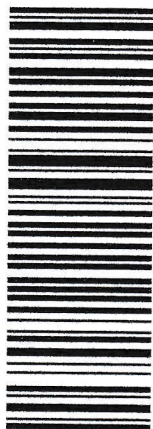
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Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.55
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- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

HORMEL FOODS CORPORATE SERVICES, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

Postmark

Here

Turkey Toledo, V.
Hormel Foods Corp.
Services, LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



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- Complete items 1, 2, and 3.
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1. Article Addressed to:

HORMEL FOODS CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2488 29

2. Article Number (Transfer from service label)

7017 0530 0000 8095 1396

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Registered Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

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7017 0530 0000 8095 1396

HORMEL FOODS CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912

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Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.85
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 4.63

Total Postage and Fees

\$ 8.08

Sent To

HORMEL FOODS CORPORATION

Street and Apt. No., or PO Box No.
1 HORMEL PLACECity, State, ZIP+4®
AUSTIN, MN 55912

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

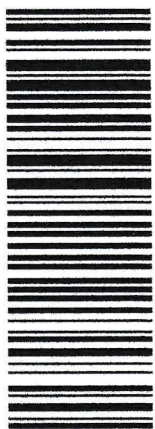
Postmark
HereTucson, Arizona
Hormel Foods Corp.

one

LAW APC

1000
Park East, Ste 1000
CA 90067

CERTIFIED MAIL®



7017 0530 0000 8095 1389

one
LAW APC
1000
Park East, Ste 1000
CA 90067

HORMEL FOODS OPERATIONS, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

HORMEL FOODS OPERATIONS, LLC
1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2488 36

2. Article Number (Transfer from service label)

7017 0530 0000 8095 1389

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Registered Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

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Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.85
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

HORMEL FOODS OPERATIONS, LLC

Street and Apt. No., or PO Box No.

1 HORMEL PLACE

City, State, ZIP+4®

AUSTIN, MN 55912

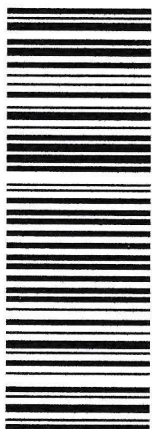
Postmark
Here

Furcious Toledo V.
Hormel Foods Operations
LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

CERTIFIED MAIL®



7019 0700 0001 7653 2008

one
AW APC
y Park East, Ste 1000
CA 90067



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
HORMEL FOODS INTERNATIONAL CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2488 50

2. Article Number (Transfer from service label)

7019 0700 0001 7653 2008

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

HORMEL FOODS INTERNATIONAL CORPORATION
1 HORMEL PLACE
AUSTIN, MN 55912

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Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- ☒ Return Receipt (hardcopy) \$ 2.85
- ☐ Return Receipt (electronic) \$
- ☐ Certified Mail Restricted Delivery \$
- ☐ Adult Signature Required \$
- ☐ Adult Signature Restricted Delivery \$

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

HORMEL FOODS INTERNATIONAL CORPORATION

Street and Apt. No., or PO Box No.

1 HORMEL PLACE

City, State, ZIP+4®

AUSTIN, MN 55912

Postmark
Here

Ruiz Toledo v.
Hormel Foods International
Corporation

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

7019 0700 0001 7653 2008



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

HORMEL FOODS SALES, LLC
1 HORMEL PLACE
AUSTIN, MN 55912



9590 9402 1512 5362 2488 43

2. Article Number (Transfer from service label)

7019 0700 0001 7653 1995

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Insured Mail (over \$500) | |

Domestic Return Receipt

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7019 0700 0001 7653 1995

HORMEL FOODS SALES, LLC
1 HORMEL PLACE
AUSTIN, MN 55912

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Certified Mail Fee

\$ 3.60

Extra Services & Fees (check box, add fee as appropriate)

- | | |
|---|---------|
| ☒ Return Receipt (hardcopy) | \$ 2.85 |
| ☐ Return Receipt (electronic) | \$ |
| ☐ Certified Mail Restricted Delivery | \$ |
| ☐ Adult Signature Required | \$ |
| ☐ Adult Signature Restricted Delivery | \$ |

Postage

\$ 1.63

Total Postage and Fees

\$ 8.08

Sent To

HORMEL FOODS SALES, LLC

Street and Apt. No. 1 HORMEL PLACE

City, State, ZIP+4 AUSTIN, MN 55912

Postmark
Here

Turcios Toledo v.
Hormel Foods Sales,
LLC

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

one
LAW APC
1000
Park East, Ste 1000
CA 90067

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <i>Terry Nelson</i> ☒ Agent ☐ Addressee	
1. Article Addressed to:		B. Received by (Printed Name) <i>TERRY NELSON</i>	C. Date of Delivery <i>9/22</i>
HORMEL FOODS SALES, LLC 1 HORMEL PLACE AUSTIN, MN 55912		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
 9590 9402 1512 5362 2488 43		3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☐ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Insured Mail (over \$500)	
2. Article Number (Transfer from service label) 7019 0700 0001 7653 1995			
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000, Los Angeles, California 90067.

On **December 22, 2021**, I served the document(s) described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Alexander Chemers
zander.chemers@ogletreedeakins.com
OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.
400 South Hope Street, Suite 1200
Los Angeles, CA 90071

Jade Butman
jade.butman@ogletree.com
OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111

Yeva Mikaelyan
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Jessica Libbey
jessica.libbey@ogletreedeakins.com
Sally Navarrete
sally.navarrete@ogletreedeakins.com

Attorneys for Defendant
COLUMBUS MANUFACTURING, INC.;
HORMEL FOODS CORPORATION;
HORMEL FOODS INTERNATIONAL
CORPORATION;
HORMEL FOODS CORPORATE
SERVICES, LLC;
HORMEL FOODS OPERATIONS, LLC;
HORMEL FOODS SALES, LLC

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY FAX:** I hereby certify that this document was served from Los Angeles, California, by facsimile delivery on the parties listed herein at their most recent fax number of record in this action.

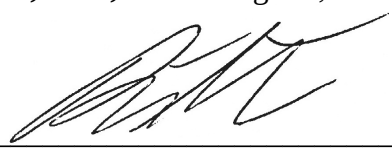
☐ **BY PERSONAL SERVICE:** I caused delivery of the document(s), enclosed in a sealed envelope, by hand via ProLegal Network to the offices of the addressee(s) named herein.

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by

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our office to a designated collection site.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **December 22, 2021**, at Los Angeles, California.

Riley McIntire
Type or Print Name


Signature