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Attorneys for Plaintiff BRIGIDA B.
QUERO DE MELCHOR, on behalf of herself
and current and former aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

BRIGIDA B. QUERO DE MELCHOR, on
behalf of herself and others similarly situated,

Plaintiff,

vs.

GLORIANN FARMS, INC.; and DOES 1 to
100, inclusive,

Defendants.

Case No.:

PAGA ACTION

**PLAINTIFF BRIGIDA B. QUERO DE
MELCHOR'S COMPLAINT FOR
DAMAGES AND RESTITUTION FOR:**

- 1. CIVIL PENALTIES PURSUANT
TO THE PRIVATE
ATTORNEYS GENERAL ACT
OF 2004 ("PAGA"), LABOR
CODE SECTION 2698, et seq.**

COMES NOW Plaintiff BRIGIDA B. QUERO DE MELCHOR ("Plaintiff"), who alleges
and complains against Defendants GLORIANN FARMS, INC. and DOES 1 to 100, inclusive
(collectively "Defendants") as follows:

I. INTRODUCTION

- This is a Private Attorneys' General Act of 2004, Lab. Code § 2698, et seq.

1 (“PAGA”). representative action brought by Plaintiff on behalf of the State of California, herself
2 and other current and former aggrieved employees of Defendants who worked as hourly, non-
3 exempt employees, in California during the relevant time period seeking civil penalties associated
4 with Defendants’ violation of the Labor Code based on Defendant’s failure to pay wages for all
5 hours worked at the employees’ minimum wage rate or overtime rate; failure to authorize or
6 permit all legally required and compliant meal periods and/or pay meal period premium wages;
7 failure to authorize or permit all legally required and compliant rest periods and/or pay rest period
8 premium wages; failure to timely pay earned wages during employment; failure to provide
9 complete and accurate wage statements; and failure to timely pay all unpaid wages following
10 separation of employment. Plaintiff seeks on a representative basis, following notice to the Labor
11 and Workforce Development Agency, civil penalties, reasonable attorney’s fees pursuant to Labor
12 Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and
13 others aggrieved.

14 **II. JURISDICTION AND VENUE**

15 2. This Court has jurisdiction over Plaintiff and the Class Members’ claims because
16 Plaintiff’s lawsuit seeks damages in excess of \$25,000 and Defendants employed class members
17 and injuries occurred in locations in California including but not limited to San Joaquin County, at
18 4598 S. Tracey Blvd, Ste 160, Tracey CA 95377.

19 **III. PARTIES**

20 3. Plaintiff brings this action as a representative of the Labor and Workforce
21 Development Agency on behalf of herself and other current and former employees subject to
22 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
23 filed include current, former and/or future employees of Defendants who worked, work, or will
24 work for Defendants as non-exempt hourly employees in California. At all times mentioned
25 herein, the currently named Plaintiff is and was domiciled and a resident and citizen of California
26 and was employed by Defendants in an hourly position at Defendants’ location in San Joaquin
27 from approximately 2012 until his termination on or about June 4, 2021.

28 4. Plaintiff is informed and believes and thereon alleges that Defendant GLORIANN

1 FARMS, INC. is authorized to do business within the State of California and is doing business in
2 the State of California and/or that Defendants DOES 1-33 are, and at all times relevant hereto
3 were persons acting on behalf of Defendant GLORIANN FARMS, INC. in the establishment of,
4 or ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
5 GLORIANN FARMS, INC. operates in San Joaquin County and employed Plaintiff and putative
6 class members in San Joaquin County, including but not limited to, at 4598 S. Tracey Blvd, Ste
7 160, Tracey CA 95377.

8 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 34
9 through 66 are corporations, or are other business entities or organizations of a nature unknown to
10 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
11 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
12 working conditions of employment of Plaintiff and aggrieved employees.

13 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 67
14 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
15 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
16 supervisor, independent contractor and/or employee of each defendant who violated or caused to
17 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
18 the Industrial Welfare Commission's wage orders regulating hours and days of work.

19 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
20 sues said defendants by said fictitious names and will amend this complaint when the true names
21 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
22 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
23 named defendants is in some manner responsible for the events and allegations set forth in this
24 complaint.

25 8. Plaintiff makes the allegations in this complaint without any admission that, as to
26 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
27 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

28 ///

1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

3 **GENERAL ACT OF 2004, LABOR CODE SECTION 2698, et seq.**

4 **(Against all Defendants)**

5 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

6 10. During the period beginning one-year period preceding the sending of the initial
7 notice to the LWDA to the present, Defendants violated Labor Code sections 201, 202, 203, 204,
8 226, 226.7, 510, 512, 1194, 1197, and Sections 14 and 15 of the applicable Wage Orders.

9 11. Specifically, Defendants have committed the following violations of California
10 Labor Code:

11 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services which inure to the benefit of the employer.

17 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
18 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
19 Wage Orders. In this case, Plaintiff and other current and former aggrieved California-based
20 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
21 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
22 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
23 wage for all hours worked due to Defendants’ policies, practices, and/or procedures including, but
24 not limited to:

25 a) Requiring Plaintiff and other current and former aggrieved California-based hourly
26 non-exempt employees to arrive early prior to the start of their shift to travel to locker room, leave
27 personal items in locker, and don personal protective equipment (“PPE”) prior to being permitted
28 to clock in the for the start of their shift;

1 b) Since the outbreak of COVID-19, Plaintiff and other current and former aggrieved
2 California-based hourly non-exempt employees were required to arrive early prior to the start of
3 their shift to line up to wait to undergo and undergo COVID-19 temperature checks prior to
4 clocking in for the start of their shift;

5 c) Requiring Plaintiff and other current and former aggrieved California-based hourly
6 non-exempt employees to retrieve items from the locker room and doff PPE after clocking out of
7 for the end of their shifts;

8 d) “Rounding” down or “shaving” Plaintiff’s and other current and former aggrieved
9 California-based hourly non-exempt employees’ total daily hours at the time of their clock-in and
10 clock-out to the nearest quarter of an hour, to the benefit of Defendants; and

11 e) Requiring Plaintiff and other current and former aggrieved California-based hourly
12 non-exempt employees to travel to and from a designated area while they were off the clock
13 during their meal periods.

14 14. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
15 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants’
16 control without paying wages for that time. This resulted in Plaintiff and other current and former
17 aggrieved California-based hourly non-exempt employees working time for which they were not
18 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
19 Wage Order.

20 15. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
21 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
22 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
23 which includes all time that an employee is under control of the employer and all time the
24 employee is suffered and permitted to work. This includes the time an employee spends, either
25 directly or indirectly, performing services that inure to the benefit of the employer.’

26 16. Labor Code sections 510 and 1194 require an employer to compensate employees a
27 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty
28 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

17. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to arrive early prior to the start of their shift to travel to locker room, leave personal items in locker, and don personal protective equipment ("PPE") prior to being permitted to clock in the for the start of their shift;

b) Since the outbreak of COVID-19, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were required to arrive early prior to the start of their shift to line up to wait to undergo and undergo COVID-19 temperature checks prior to clocking in for the start of their shift;

c) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to retrieve items from the locker room and doff PPE after clocking out of for the end of their shifts;

d) "Rounding" down or "shaving" Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees' total daily hours at the time of their clock-in and clock-out to the nearest quarter of an hour, to the benefit of Defendants; and

e) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to travel to and from a designated area while they were off the clock during their meal periods.

18. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were under the control of Defendants but were not compensated. To the extent that the

1 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
2 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
3 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
4 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
5 sections 510 and 1194 and the applicable Wage Order.

6 19. **Failure to pay wages to hourly non-exempt employees for workdays that**
7 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
8 current and former aggrieved California-based hourly non-exempt employees regularly worked
9 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

10 20. California law requires an employer to authorize or permit an employee an
11 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
12 all duties and the employer relinquishes control over the employee's activities prior to the
13 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 8 at §11; *Brinker*
14 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
15 employee for a work period of more than ten (10) hours per day without providing the employee
16 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
17 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
18 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
19 period is only permitted when: (1) the nature of the work prevents an employee from being
20 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

21 21. If an employer fails to provide an employee a meal period in accordance with the
22 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
23 for each workday that a legally required and compliant meal period was not provided. Labor Code
24 section 226.7; Wage Order 8 at §11.

25 22. In this case, Defendants failed to authorize or permit legally required and compliant
26 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
27 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
28 limited to:

1 a) Requiring Plaintiff and other current and former aggrieved California-based hourly
2 non-exempt employees to travel to and from a designated area while they were off the clock
3 during their meal periods, resulting in meal periods that were not duty-free and/or less than thirty
4 (30) minutes, and

5 b) Despite that Defendants do not provide full, duty-free, and uninterrupted thirty (30)
6 minutes meal breaks, thirty (30) minutes were deducted Plaintiff's and other current and former
7 aggrieved California-based hourly non-exempt employees' daily hours worked and attributed to a
8 meal break.

9 23. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
10 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
11 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
12 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
13 employees did not receive legally required and compliant meal periods, in violation of Labor Code
14 section 226.7.

15 24. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
16 and other current and former aggrieved California-based hourly non-exempt employees not
17 receiving wages to compensate them for workdays during which Defendants did not provide them
18 with meal periods in compliance with California law.

19 25. **Failure to pay wages to hourly non-exempt employees for workdays that**
20 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
21 current and former aggrieved California-based hourly non-exempt employees regularly worked
22 shifts of more than three-and-a-half (3.5) hours.

23 26. California law requires every employer to authorize and permit an employee a rest
24 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
25 Code section 226.7; Wage Order 8 at §12. Under California law, "[e]mployees are entitled to 10
26 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more
27 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
28 on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code

1 section 226.7; Wage Order 8 at §12. Rest periods, insofar as practicable, shall be in the middle of
2 each work period. Wage Order 8 at §12. Additionally, the rest period requirement “obligates
3 employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM*
4 *Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must
5 relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

6 27. If the employer fails to authorize or permit a required rest period, the employer
7 must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday
8 the employer did not authorize or permit a legally required rest period. Labor Code section 226.7;
9 Wage Order 8 at § 12.

10 28. In this case, Defendants failed to authorize or permit all legally required and
11 compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly
12 non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not
13 limited to:

14 a) Requiring Plaintiff and other current and former aggrieved California-based hourly
15 non-exempt employees to travel to and from a designated area during their rest periods, resulting
16 in rest periods that were not duty-free and/or were less than a net (10) minutes, and

17 b) Failing to authorize or permit Plaintiff and other current and former aggrieved
18 California-based hourly non-exempt employees a third uninterrupted duty-free rest period of a net
19 ten (10) minutes for shifts exceeding ten (10) hours.

20 29. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
21 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
22 based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each
23 workday they did not receive legally required and compliant rest periods, , in violation of Labor
24 Code section 226.7.

25 30. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff
26 and other current and former aggrieved California-based hourly non-exempt employees not
27 receiving wages to compensate them for workdays in which Defendants did not provide them with
28 rest periods in compliance with California law.

1 **31. Failure to timely pay earned wages during employment:** In California, wages
2 must be paid at least twice during each calendar month on days designated in advance by the
3 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
4 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
5 16th and the 26th day of that month and wages earned between the 16th and the last day,
6 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
7 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
8 paid within seven (7) calendar days following the close of the payroll period in which wages were
9 earned. Labor Code section 204(d).

10 **32.** As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
11 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
12 exempt employees' earned wages (including minimum wages, overtime wages, meal period
13 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
14 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
15 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
16 their earned wages within the applicable time frames outlined in Labor Code section 204.

17 **33. Failure to provide complete and accurate wage statements:** Labor Code section
18 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
19 employee his or her wages, the employer must "furnish each of his or her employees ... an
20 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
21 employee, except for any employee whose compensation is solely based on a salary and who is
22 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
23 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
24 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
25 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
26 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
27 name of the employee and his or her social security number, (8) the name and address of the legal
28 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and

1 the corresponding number of hours worked at each hourly rate by the employee.”

2 34. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
3 and other current and former aggrieved California-based hourly non-exempt employees all wages
4 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
5 period premium wages) rendered Plaintiff’s and other current and former aggrieved California-
6 based hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code
7 section 226.

8 35. **Failure to pay employees all wages due at time of termination/resignation:** An
9 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
10 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
11 hours of resignation (Labor Code section 202).

12 36. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
13 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
14 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
15 and/or rest period premium wages), Defendants failed to pay those employees timely after each
16 employee’s termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

17 37. Defendants’ violations of Wage Order 8 constituted violations of Labor Code
18 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

19 38. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
20 employee, on behalf of himself or herself and other current or former employees, to bring a civil
21 action to recover civil penalties against all Defendants pursuant to the procedures specified in
22 Labor Code section 2699.3.

23 39. Plaintiff has complied with the procedures for bringing suit specified in Labor
24 Code section 2699.3. On October 21, 2021, Plaintiff filed notice with LWDA and provided notice
25 to Defendants by certified mail which provided notice of the specific provisions of the Labor Code
26 alleged to have been violated, including the facts and theories to support the violations alleged.

27 40. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
28 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code

1 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
2 parties notice within 60 days of the date of Plaintiff's letter that the LWDA intends to investigate
3 Plaintiff's claims.

4 41. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
5 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204 226, 226.7, 510,
6 512, 1194, and 1197 during the Civil Penalty Period in the following amounts:

7 a. For violations of Labor Code sections 201, 202, 203, 204, 226.7, 512, and
8 1198; one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
9 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
10 subsequent violation [penalty amounts established by Labor Code section 2699(f)(2)].

11 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
12 for each employee for each pay period for the initial violation, and for each subsequent violation,
13 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
14 established by Labor Code section 226.3].

15 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
16 employee for each pay period for the initial violation, and for each subsequent violation, one
17 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
18 established by Labor Code section 558] and any unpaid wages.

19 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
20 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
21 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
22 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

23 42. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
24 reasonable attorney's fees and costs in connection with her claims for civil penalties

25 **PRAYER FOR RELIEF**

26 **WHEREFORE, PLAINTIFF, ON HER BEHALF, ON BEHALF OF THE STATE**
27 **OF CALIFORNIA, AND ON OTHER CURRENT AND FORMER AGGRIEVED**
28 **EMPLOYEES PRAYS AS FOLLOWS:**

ON THE FIRST CAUSE OF ACTION:

1. That the Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to that recoverable under California Labor Code, including but not limited to sections 2699(f).

3. For attorneys' fees and costs of suit, including but not limited to that recoverable under California Labor Code section 2699(g); and,

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: April 26, 2022

Respectfully submitted,

LAVI & EBRAHIMIAN, LLP

LAW OFFICES OF SAHAG MAJARIAN II

By:



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Pooja V. Patel, Esq.

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QUERO DE MELCHOR, on behalf of herself
and current and former aggrieved employees