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11 behalf of other persons similarly situated and similarly aggrieved
12 employees

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

15 MARIE ELSA FIGUEROA GARCIA,
16 individually and on behalf of other persons
17 similarly situated and similarly aggrieved
18 employees,

19 Plaintiffs,

20 v.

21 FRESH GRILL, LLC, an active California
22 Limited Liability Company;
23 PRIORITYWORKFORCE, INC., an active
24 California Corporation; and DOES 1 through
25 10,

26 Defendants.

Case No.: 30-2021-01226519-CU-OE-CXC

Assigned to: Hon. Glenda Sanders
Department: CX-101
Complaint Filed: October 18, 2021

**FIRST AMENDED COMPLAINT –
CLASS AND REPRESENTATIVE
ACTION**

1. Failure to Provide Meal Periods;
2. Failure to Provide Paid Rest Periods;
3. Failure to Pay Wages;
4. Failure to Timely Pay Wages at Termination/Separation;
5. Failure to Provide Compliant Itemized Wage Statements;
6. Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, *et seq.*; and

Plaintiff MARIE ELSA FIGUEROA GARCIA ("Plaintiff"), on behalf of herself and all others similarly situated and similarly aggrieved employees, based on information and belief, complains and alleges:

I.

INTRODUCTION

1. This class and representative action lawsuit arises out of the failure of Defendant FRESH GRILL, LLC and Defendant PRIORITYWORKFORCE, INC. (referred to herein as "Defendants") to provide meal periods at the proper intervals, to provide rest periods at the proper intervals, to pay all wages owed including overtime, to provide accurate and legally compliant wage statements, and to pay all wages owed to terminated or separated employees in a timely manner.
2. Defendants employed Plaintiff during the applicable time period, utilizing consistent policies and procedures in violation of Labor Code §200, et seq., Labor Code §500, et seq., Labor Code §1194, et seq., and the applicable Wage Orders issued by the California Industrial Welfare Commission.
3. Defendant Priorityworkforce, Inc. is a staffing agency and Defendant Fresh Grill, LLC is engaged in the business of packaging and distribution of food products. Plaintiff was hired by Defendant Priorityworkforce, Inc. in 2015. Defendant Priorityworkforce, Inc. staffed Plaintiff for work with Defendant Fresh Grill, LLC until Plaintiff's separation on or about April 21, 2021. At all times during her employment, Plaintiff had a non-exempt classification. Plaintiff was working at Defendants' facility located at 111 E. Garry Avenue in Santa Ana, California.
4. At the time of her termination, Plaintiff was not paid all her wages.

- 1 5. Plaintiff was also deprived of lawful meal and rest periods, not paid all wages
2 including overtime she was entitled to, and failed to receive accurate and
3 legally compliant itemized wage statements.
- 4 6. Defendants had a consistent policy of not paying wages for all hours worked,
5 including overtime wages as applicable, for work off-the-clock and
6 compensation related miscalculations.
- 7 7. Defendants had a consistent policy of requiring their employees, including
8 Plaintiff, to work through meal periods or work without a meal period for at
9 least five (5) hours of a shift and failing to pay such employees one (1) hour of
10 pay at the employees' regular rate of compensation for each workday that the
11 meal period was not provided or as required by California state wage and hour
12 laws.
- 13 8. Defendants had a consistent policy of failing to allow their employees,
14 including Plaintiff, rest periods for at least ten (10) minutes per four (4) hours,
15 or a major fraction, worked, and failing to pay such employees one (1) hour of
16 pay at their regular rate of compensation for each workday that the rest period
17 is not provided, or other compensation, as required by California state and
18 wage and hour laws.
- 19 9. Defendants knowingly provided inaccurate wage statements to their
20 employees, including Plaintiff, that did not correctly include the correct wages,
21 including compensation for meal periods not provided and rest period not
22 authorized or permitted as required by California state wage and hour laws.
23 The wage statements also did not list any employer names or addresses.
- 24 10. Defendants had a consistent policy of failing to pay their employees, including
25 Plaintiff, all wages due at the termination or separation, in violation of
26 California state wage and hour laws.
- 27 11. Plaintiff, on behalf of herself and all Class Members, brings this action
28

1 pursuant to Lab. Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, and 1194.2
2 seeking unpaid wages, penalties, equitable relief, and reasonable attorneys' fees
3 and costs.

4 12. Plaintiff, on behalf of herself and the putative class members, also brings
5 this action pursuant to Bus. & Prof. Code §§ 17200, *et seq.*, seeking injunctive
6 relief, restitution, and disgorgement of all benefits obtained by Defendants as a
7 result of Labor Code and applicable Wage Order violations.

8 13. Plaintiff, on behalf of the State of California, herself, and other similarly
9 aggrieved employees, also brings this action pursuant to California Private
10 Attorney General Act ("PAGA"), Cal. Lab. Code §2698, *et seq.* seeking unpaid
11 wages and other compensation, penalties, and reasonable attorneys' fees and
12 costs.

13 II.

14 JURISDICTION AND VENUE

15 14. Venue as to each defendant is proper in this judicial district, pursuant to Code
16 of Civil Procedure § 395. The County of Orange is the proper venue, because
17 work for Defendants was performed by Plaintiff and other class members in the
18 County of Orange and the legal obligations owed by Defendants to Plaintiff and
19 other class members were breached in the County of Orange.

20 15. The California Superior Court has jurisdiction in this matter, because Plaintiff is
21 a resident of California, Defendants are qualified to do business in California,
22 and regularly conduct business in California.
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III.

THE PARTIES

16. Plaintiff MARIE ELSA FIGUEROA GARCIA is a resident of the State of California, and was employed by Defendants in Orange County from 2015 through on or about April 21, 2021.

17. Defendant FRESH GRILL, LLC was an active California Limited Liability Company at all times during the claims of Plaintiff and the putative class, was doing business in California, and was headquartered in California.

18. Defendant PRIORITYWORKFORCE, INC. was an active California Corporation at all times during the claims of Plaintiff and the putative class, was doing business in California, and was headquartered in California.

19. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as Does 1 through 10, but she is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.

20. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

IV.

GENERAL ALLEGATIONS

21. At all times relevant here and as set forth in the following paragraphs of this First Amended Complaint, Defendants employed more than 100 people; and

1 Plaintiff and each member of the putative class was employed by Defendants,
2 and each of them, in the State of California.

3 22. The employees of Defendants have not been provided: uninterrupted thirty-
4 minute meal periods for work periods of more than five (5) hours per day;
5 second uninterrupted thirty-minute meal periods for work periods of more
6 than ten (10) hours per day; and have not been permitted to take ten-minute
7 (10) rest periods for work periods of four (4) hours or major fractions, pursuant
8 to the Labor Code, and applicable IWC Wage Orders.

9 23. Defendants failed to pay employees wages owed for all hours worked,
10 including overtime hours as applicable, for work off-the-clock and
11 compensation related miscalculations.

12 24. Defendants failed to pay Plaintiff and the members of her putative class upon
13 separation the wages earned and unpaid at the time of discharge.

14 25. Defendants failed to provide Plaintiff and the putative members of her class, at
15 the time of each payment of wages, an accurate itemized statement in writing,
16 showing the gross wages earned, including premium wages owed for failing to
17 provide meal and/or rest periods at the proper intervals. The wage statements
18 also did not list any employer names or addresses.

19 26. Plaintiff asserts claims for relief on behalf of herself and other similarly situated
20 persons as a class action pursuant to Code of Civil Procedure § 382. Plaintiff
21 and all members of her putative class are described below with specificity and
22 fall in several categories of subclasses whose rights have been violated under
23 the law. Defendants have made no effort as of the filing of this Complaint to
24 correct or remedy the violations of law specified here.

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V.

CLASS ACTION ALLEGATIONS

27. Plaintiff brings this action on behalf of herself and all other employees of Defendants who are similarly-situated persons as a class action pursuant to California Code of Civil Procedure § 382. There is a well-defined common interest by and among Plaintiff and the putative class members, and it is impractical to bring all those individuals before the court under separate, different and repetitive actions. Plaintiff also reserves the right to amend or modify the class descriptions set forth below in greater specificity or clarity if required in the future in accordance with California Rules of Court, rule 3.765 (b). The class which Plaintiff seeks to represent is composed of and defined as follows:

“Plaintiff Class” – All of Defendants’ current and former non-exempt employees who worked for Defendants in California, during the four years before the filing of the Complaint through the time of class certification.

28. Plaintiff seeks to certify the following subclasses of employees:

- a) “Meal Period Subclass” – All members of Plaintiff Class who worked each period exceeding five (5) hours without an uninterrupted, off duty, thirty (30) minute meal period and/or periods in excess of ten (10) hours without a second uninterrupted, off duty, thirty (30) minute meal periods; and were not provided compensation of one hour’s pay at the employee’s regular rate for each day that a meal period was not provided.
- b) “Rest Period Subclass” – All members of Plaintiff Class who worked periods of four (4) hours or major fraction thereof without a duty free rest period of at least 10-minutes and who were not compensated one

hour's pay at the employee's regular rate for each day that a rest period was not permitted.

- c) "Unpaid Wage Subclass" – All members of Plaintiff Class who were not paid their minimum/actual wages, including the time that was unlawfully considered by Defendants as off-the-clock, as well as overtime wages for hours worked in excess of eight hours per day at the one and a half rate or at a double time rate as applicable.
- d) "Waiting Time Subclass" – All members of Plaintiff Class to whom Defendants failed to pay all wages due to them upon termination or resignation under Labor Code §§ 201-203.
- e) "Wage Statement Subclass" – All members of Plaintiff Class to whom Defendants improperly failed to provide accurate and legally compliant itemized wage statements under Labor Code §§ 226.
- f) "UCL Subclass" – All members of the Meal Period, Rest Period, Unpaid Wage, Waiting Time, Wage Statement Subclasses who were subject to unlawful, illegal, unfair and/or deceptive business acts and practices by Defendants and are entitled to disgorgement and restitution of unpaid wages.

29. There is a well-defined community of interest among many persons who comprise a readily ascertainable class:

- a) Numerosity - The potential members of the Class and Subclasses as defined here are so numerous that the individual joinder of all of them as named plaintiffs is impracticable. The number of members of the Class and Subclasses is unknown to Plaintiff. It is however estimated that the members are more than 100 individuals, and their identities may readily be ascertained from Defendants' records.
- b) Typicality – The claims of Plaintiff are typical of the claims of all members of the Class and Subclasses, who sustained similar damages

1 arising out of Defendants' common course of conduct in violation of law
2 as alleged.

- 3 c) Ascertainable Class – The proposed Class and Subclasses are
4 ascertainable as the members can readily be identified and located based
5 on the Defendants' payroll and personnel records.
- 6 d) Adequacy – Plaintiff is an adequate representative of the Class and
7 Subclasses: Plaintiff will fairly protect the interests of the members, she
8 has no interest adverse to the members, and she will vigorously pursue
9 this lawsuit on behalf of all the members of the Class and Subclasses.
10 Plaintiff's attorneys are competent, skilled and experienced in litigating
11 large employment law class actions.
- 12 e) Superiority - Class action treatment will allow a large number of
13 similarly situated persons to prosecute their common claims in a single
14 forum simultaneously, efficiently, and without the unnecessary
15 duplication of effort and expense that numerous individual actions
16 would require. Further, the monetary amounts due to many individual
17 members of the Class and Subclasses are likely to be relatively small, and
18 the burden and expense of individual litigation would make it difficult
19 or impossible for the members to seek and obtain relief. A class action
20 will serve an important public interest by permitting employees harmed
21 by Defendants' unlawful practices to effectively pursue recovery of the
22 sums owed to them.
- 23 f) Common Questions of Law and Fact – There are common questions of
24 law and fact as to the members of the Class and Subclasses which are
25 superior to questions affecting only individual members of the Class and
26 Subclasses. The common questions of law and fact may be summarized
27 as follows and if necessary will be refined with the progress of formal
28 discovery in the case:

- 1 g) Whether Defendants failed to provide members of Plaintiff Class who
2 ceased employment with Defendants all wages owed at the time of the
3 cessation of the employee-employer relationship?
- 4 h) Whether Defendants violated California law and applicable Wage
5 Orders by failing to provide Plaintiff Class members with paid ten-
6 minute (10) rest periods for each four hours worked?
- 7 i) Whether the remedy for an employer's failure to provide rest breaks as
8 required by law is a premium wage for hardship of missing a lawful rest
9 break?
- 10 j) Whether Defendants violated California law and applicable Wage
11 Orders by failing to provide Plaintiff Class members with an off-duty
12 thirty minute (30) meal period for more than five hours of work?
- 13 k) Whether Defendants violated California law and applicable Wage
14 Orders by failing to provide members of Plaintiff Class with a second
15 meal period?
- 16 l) Whether the remedy for an employer's failure to provide meal period as
17 required by law is a premium wage for hardship of missing a lawful
18 meal period?
- 19 m) Whether Defendants violated California law, including the applicable
20 wage orders by failing to properly compensate Plaintiff Class members
21 for all hours worked, including overtime hours as applicable?
- 22 n) Whether Plaintiff Class is entitled to waiting time penalties under Labor
23 Code § 203?
- 24 o) Whether Defendants violated California law by their failure to provide
25 Plaintiff Class with accurate and legally compliant itemized wage
26 statements?
- 27 p) Whether Defendants violated Business and Professions Code §§ 17200 et.
28 seq., Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, and

applicable Wage Orders which constitutes violations of the public policy?

- q) Whether Plaintiff Class is entitled to an equitable relief in accordance with Business and Professions Code §§ 17200 et. seq.
- r) Whether Defendants' affirmative defenses, if any, raise common issues of law and fact as to Plaintiff Class as a whole and/or Subclasses in particular?

VI.

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF

(Labor Code §§ 226.7, 512)

(By Plaintiff and Meal Period Subclass against Defendants)

30. Plaintiff incorporates paragraphs 1 through 29 of this First Amended Complaint as if fully alleged herein.
31. By their failure to provide thirty minute (30) uninterrupted meal period as well as second meal period, if applicable, to Plaintiff and members of the Meal Period Subclass, Defendants willfully violated the provisions of Labor Code §§ 226.7, 512 and applicable IWC Wage Orders.
32. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

VII.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

(Labor Code § 226.7)

(By Plaintiff and Rest Period Subclass against Defendants)

1
2 33. Plaintiff incorporates paragraphs 1 through 29 of this First Amended Complaint
3 as if fully alleged herein.

4 34. By their failure to provide ten-minute (10) rest periods for every four (4) hours
5 of work or major fraction thereof per day to Plaintiff and Rest Period Subclass,
6 Defendants willfully violated Labor Code § 226.7 and applicable Wage Orders.
7 As a result of Defendants' unlawful conduct, Plaintiff and other members of the
8 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
9 below, and fully incorporated here as applicable.

10
11 **VIII.**

12 **THIRD CAUSE OF ACTION**

13 **FAILURE TO PAY WAGES**

14 **(Labor Code §§ 204, 210, 510, 1194, 1194.2)**

15 **(By Plaintiff and the Unpaid Wage Subclass against Defendants)**

16 36. Plaintiff incorporates paragraphs 1 through 29 of this First Amended Complaint
17 as if fully alleged herein.

18 37. At all relevant times, Plaintiff and the other members of the Unpaid Wage Class
19 were employees of Defendants covered by Labor Code §§ 204, 210, 510, 1194,
20 1194.2 and applicable Wage Orders, and they were entitled to receive minimum
21 and overtime wages for all hours worked and liquidated damages equal to
22 unlawfully unpaid minimum wages with interest.

23 38. Defendants have violated California law and the specified provisions of the
24 Labor Code and applicable Wage Orders by their failure to pay all wages due in
25 accordance, including minimum wages, wrongfully classified off-the-clock
26 wages and overtime pay. Notably, any wages that were paid were not
27 effectively paid within seven (7) days of the close of any applicable payroll
28 period. As a result of Defendants' unlawful conduct, Plaintiff and other

1 members of the Subclass have suffered damages as articulated in the Prayer for
2 Relief, set forth below, and fully incorporated here as applicable.

3
4 **IX.**

5 **FOURTH CAUSE OF ACTION**
6 **FAILURE TO PAY WAGES DUE AT TERMINATION**
7 **(Labor Code §§ 201, 202, 203)**
8 **(By Plaintiff and Waiting Time Subclass against Defendants)**

9 39. Plaintiff incorporates paragraphs 1 through 29 of this First Amended Complaint
10 as if fully alleged herein.

11 40. By their failure to timely pay Plaintiff and Waiting Time Subclass, Defendants
12 willfully violated the provisions of Labor Code §§ 201, 202, 203 and applicable
13 Wage Orders. Sec. 203 of Labor Code provides that if an employer willfully fails
14 to timely pay such wages, the employer must, as penalty, continue to pay the
15 employee's wages until the back wages are paid in full or an action is
16 commenced.

17 41. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
18 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
19 below, and fully incorporated here as applicable.

20
21 **X.**

22 **FIFTH CAUSE OF ACTION**
23 **FAILURE TO PROVIDE COMPLIANT ITEMIZED WAGE STATEMENTS**
24 **(Labor Code §226)**
25 **(By Plaintiff and Wage Statement Subclass against Defendants)**

26 42. Plaintiff incorporates paragraphs 1 through 29 of this First Amended Complaint
27 as if fully alleged herein.
28

1 43. By their failure to provide accurate itemized wage statements, semimonthly or
2 at the time of each payment of wages, Defendants willfully violated the
3 provisions of Labor Code §226 and applicable Wage Orders.

4 44. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
5 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
6 below, and fully incorporated here as applicable.

7
8 **XI.**

9 **SIXTH CAUSE OF ACTION**

10 **VIOLATION OF UNFAIR BUSINESS PRACTICES ACT**

11 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

12 **(By Plaintiff, Plaintiff Class and All Subclasses against Defendants)**

13 45. Plaintiff incorporates paragraphs 1 through 44 of this First Amended Complaint
14 as if fully alleged herein.

15 45. The alleged unlawful conduct of Defendants constitutes unfair competition
16 pursuant to Business and Professions Code §§ 17200 *et seq.*, and this cause of
17 action is brought as a cumulative remedy under Bus. & Prof. Code § 17205 for
18 the time period starting four (4) years before the filing of the Complaint.

19 46. As a result, Plaintiff and other members of Plaintiff Class and Subclasses have
20 suffered injury in fact and lost money or property. Plaintiff and said members
21 have been deprived of their rights as set forth in this First Amended Complaint,
22 including, but not limited to, payment of minimum and/or actual wages for all
23 hours worked.

24 47. Pursuant to Business and Professions Code § 17203, Plaintiff and other
25 members of Plaintiff Class and Subclasses are entitled to restitution of all wages
26 owed to them under the Labor Code, and interest thereon, in which they had a
27 property interest, which Defendants failed to pay to them but withheld and
28 retained for themselves. Restitution of the money owed to Plaintiff, Plaintiff
Class and Subclasses is necessary to prevent Defendants from becoming

1 unjustly enriched by their failure to comply with the Labor Code provisions.
2 48. Plaintiff and members of Plaintiff Class and Subclasses are entitled to recover
3 reasonable attorney's fees in connection with their unfair competition claims
4 pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine
5 and/or the common fund doctrine.

6 49. Plaintiff requests the court to issue a preliminary and permanent injunction
7 prohibiting defendants from committing the Labor Code and applicable Wage
8 Order violations set forth in this First Amended Complaint, and Plaintiff and
9 the members of Plaintiff Class and Subclasses have suffered further damages as
10 articulated in the Prayer for Relief, set forth below, also incorporated here fully
11 as applicable.
12

13 XII.

14 SEVENTH CAUSE OF ACTION

15 **VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEY GENERAL ACT**

16 **(LABOR CODE § 2699 *et seq.*)**

17 **(By Plaintiff and Aggrieved Employees Against Each Defendant)**

18 50. Plaintiff incorporates paragraphs 1 through 49 of this First Amended Complaint
19 as if fully alleged herein.

20 51. Under the Private Attorney General Act, Labor Code §§ 2698-99 ("PAGA"),
21 private parties may recover civil penalties for violations of the California Labor
22 Code. PAGA penalties are in addition to any other relief available under the
23 Labor Code.

24 52. As set forth above, Defendants violated the California Labor Code by
25 consistently failing to employ Plaintiff and other similarly situated employees
26 in compliance with California law.

27 53. Plaintiff provided written notice by certified mail to Defendants on October 15,
28 2021, and electronic notice thereafter to the State Labor & Workforce

1 Development Agency ("LWDA"), of the legal claims and theories of this case.
2 To date, and after 65 days from the date of mailing of notice, the LWDA has not
3 notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim
4 for civil penalties under the PAGA. Accordingly, Plaintiff exhausted
5 administrative remedies as required by Labor Code § 2699.3. Plaintiff's PAGA
6 claim was assigned case number LWDA-CM-848779-21 by the LWDA. Attached
7 hereto is a true and correct copy of the referenced notice communicated by
8 Plaintiff.

9
10 54. Under the PAGA, Plaintiff and all other aggrieved employees are entitled to
11 recover the maximum civil penalties permitted by law from Defendant for the
12 violations of Labor Code alleged in this First Amended Complaint.

13 55. Plaintiff and all other aggrieved employees are also entitled to recover their
14 attorneys' fees and costs under Labor Code § 2699.

15
16 **XIII.**

17 **PRAYER FOR RELIEF**

18 **WHEREFORE**, on behalf of herself and all others similarly situated, Plaintiff
19 prays for relief and judgment against Defendants as follows:

20 A. An order certifying that Plaintiff may pursue her claims as a class action
21 under Section 382 of the Code of Civil Procedure; and it is further requested that
22 Plaintiff Class and each Plaintiff Subclass be certified;

23 B. An order appointing Plaintiff as Class representative;

24 C. An order appointing Plaintiff's counsel as Class counsel;

25 D. Disgorgement of Defendants' wrongfully obtained profits and restitution
26 of unpaid wages under Business and Professions Code §§ 17203, 17204;

27 E. Damages for unpaid additional compensation for failing to provide
28 timely or uninterrupted or lawful meal periods and rest periods;

F. Damages for unpaid minimum wages under Labor Code § 1194;

1 G. Damages for unpaid overtime and double time wages to the extent
2 applicable;

3 H. Liquidated damages under Labor Code § 1194.2;

4 I. Statutory penalties under Labor Code § 210;

5 J. Statutory penalties under Labor Code § 226(e);

6 K. Damages for unpaid penalty wages under Labor Code § 203;

7 L. Reasonable attorney's fees and costs pursuant to statute, including, but
8 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5;

9 M. Enjoinment of Defendants from further acts of unfair competition and
10 continuous violations of the Labor Code and applicable Wage Orders;

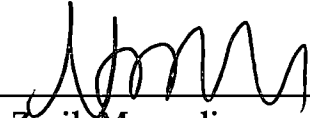
11 N. For costs of the suit incurred;

12 O. Civil penalties under Labor Code Section 2699 (75% payable to the
13 LWDA and 25% payable to aggrieved employees); and

14 P. For such other relief that the Court may deem just and proper, including
15 prejudgment interest and costs.

16
17 DATED: Dec. 22, 2021

MOORADIAN LAW, APC

18
19 By: 

20 Zorik Mooradian,

21 Haik Hacopian,

22 Attorneys for Plaintiff MARIE ELSA

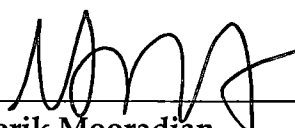
23 FIGUEROA GARCIA individually and on
24 behalf of other persons similarly situated
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1 **DEMAND FOR A JURY TRIAL**

2 Plaintiff MARIE ELSA FIGUEROA GARCIA hereby demands a jury trial in the
3 above case.

4
5 DATED: Dec. 22, 2021

MOORADIAN LAW, APC

6
7 By: 

8 Zorik Mooradian,

9 Haik Hacopian,

10 Attorneys for Plaintiff MARIE ELSA
11 FIGUEROA GARCIA individually and on
12 behalf of other persons similarly situated
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HAIK HACOPIAN

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OCTOBER 15, 2021

VIA USPS CERTIFIED MAIL

Fresh Grill, LLC
111 E. Garry Avenue
Santa Ana, CA 92707
7019 0700 0002 2582 8502

Priorityworkforce, Inc.
15941 Red Hill Ave., Suite 100
Tustin, CA 92780
7019 0700 0002 2582 8496

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Fresh Grill, LLC & Priorityworkforce, Inc.

To Whom It May Concern:

This office represents Marie Elsa Figueroa Garcia with respect to Private Attorneys General Act ("PAGA") claims that she intends to pursue against Fresh Grill, LLC ("Fresh Grill") and Priorityworkforce, Inc. ("Priority") (jointly referred to herein as "Employers") based upon their illegal wage and hour practices in the State of California as to their non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

Priority is a staffing agency which provides employees to Fresh Grill, which is engaged in the business of food packaging and distribution. Ms. Garcia worked as a non-exempt hourly employee of Employers at the facility located at 111 E. Garry Avenue in Santa Ana, California. Employers employ numerous non-exempt, hourly paid employees such as Ms. Garcia in California. Unfortunately, Employers have engaged in the following practices:

Failure to Pay Wages

Employers implemented the policy and practice of failing to pay employees for all hours worked. Employers engaged in the practice of requiring security pre and/or post shift off-the-clock security check-ins by employees. Employees also did not receive net 30-minute meal breaks. Additionally, the time clock maintained by Employers was frequently minutes ahead or behind of the actual time such that it did not properly log clock in and clock out times. Moreover, Employees had to pick up their weekly physical paychecks from the work location and to the extent the payday was on an employee's day off, such employee would have to travel to the worksite on their day off to pick up their paycheck and such time was not compensated. Furthermore, the wages paid to employees frequently did not reflect the actual time that was worked as separately tracked by employees. The foregoing practices resulted in underpayment of wages, including underpayment of overtime and double-time to the extent applicable.

Late Payment of Wages

Although Employers maintained weekly paydays, physical paychecks were retained and distributed at the job site. To the extent the payday was on an employee's day off and the employee did not travel to the jobsite on payday to pick up the check (which results in off-the-clock work as described above), the paycheck would be available to the employee on the following work day, which was effectively late delivery.

Meal Breaks

Employers engage in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. Employees did not receive premium pay for any missed, late, or short meal period. To the extent meal breaks were permitted, they would occur after the fifth hour of work, normally around the sixth hour. Notably, meal breaks were not at least a net thirty (30) minutes in duration on account of the clock in and out process.

Rest Breaks

Employers engage in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees did not receive premium pay for these missed rest breaks. Specifically, any first rest breaks were usually permitted three hours after the start of an eight hour shift and any second rest breaks were usually permitted within one hour of the end of a daily shift.

Waiting Time

At the time of an employee's separation (whether it be by termination or resignation) Employers have failed to provide the employee with all monies owed, including meal break premiums, rest break premiums, and unpaid wages for work performed, including overtime and double-time wages to the extent applicable.

Noncompliant Wage Statements

Employers have adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to, including meal and rest break premiums. Additionally, the wage statements issued to employees did not list any employer names or addresses.

Additional Penalties

Ms. Garcia and all other similarly aggrieved California employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which Employers have violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: Employers violated, and continue to violate, Labor Code Section 201 by failing to pay the employees they have discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination include uncompensated work time, including overtime and double-time as applicable, and premium wages for missed meal and rest breaks.

Labor Code Section 202: Employers violated, and continue to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: Employers violated, and continue to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Section 204: Employers violated, and continue to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above and within seven (7) calendar days following the close of payroll periods.

Labor Code Section 226: Employers violated, and continue to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: Employers violated, and continue to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Section 510: Employers violated, and continue to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law.

Labor Code Section 512: Employers violated, and continue to violate, Labor Code Section 512 by not providing aggrieved employees with legally compliant meal periods.

Labor Code Section 1194: Employers violated, and continue to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we may file an appropriate action, pursuant to Labor Code Section 2698 *et seq.* Ms. Garcia and all other similarly aggrieved California employees intend to seek all penalties for the violations described above. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,
MOORADIAN LAW, APC

/s/ Haik Hacopian
HAIK HACOPIAN

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