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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ERIKA LIZETH MERINO ALEJANDRO,
ADRIANA MOLINA, NICHOLAS
CEBALLOS, JOB ASCENCIO, and
GERMAN APARICIO, on behalf of the State
of California and other aggrieved persons,

Plaintiffs,

vs.

SANTA EASTVALE, INC. DBA PANINI
KABOB GRILL; PKG CATERING, INC.;
SANTA CORONA DEL MAR
INVESTMENTS, INC.; SANTA UTC, INC.;
SANTA MISSION, INC.; SANTA
CENTURY, INC.; SANTA LBX, INC.;
SANTA LOS OLIVOS, INC.; SANTA
BROADWAY, INC.; SANTA MIX, INC.;
SANTA FLORITA INVESTMENTS, INC.;
SANTA CERRITOS, INC.; SANTA
JAMBOREE INVESTMENTS, INC.; SANTA
PLAY VISTA PANINI INVESTMENTS,
INC.; SANTA MIGUEL, INC.; SANTA
VICTORIA INVESTMENTS, INC.; SANTA
MONICA PANINI INVESTMENTS, INC.;
SANTA BRASSY, INC.; SAN PEDRO, INC.;
SANTA CROWN, INC.; SANANA, INC.
MAH, INC.; SANTA CULVER, INC.;

Case No.: CIVSB2202254

DECLARATION OF JAMIE SERB IN
SUPPORT OF MOTION FOR APPROVAL OF
SETTLEMENT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT

Date: February 22, 2027

Time: 8:30 a.m.

Dept.: S26

SANTA CENTRAL, INC.; SANTA MARINA,
INC.; SANTA PASEO, INC.; SANTA VAN
NUYS, INC.; SAINT REAL, INC.; SAINT
UTC, INC.; SANTA GALLERIA, INC.;
FARM FOOD, INC.; SANTA ESCONDIDO,
INC.; SANTA SUNSET, INC.; SANTA
NORTHRIDGE, INC.; SAINT PARK, INC.;
and DOES 1 through 10, inclusive,

Defendants.

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1. I am an attorney duly licensed to practice in California and before this Court, and I am a partner with Crosner Legal, PC, counsel of record for plaintiffs Adriana Molina, Job Ascensio, and German Aparicio. I make this declaration of my own personal knowledge and if called to testify as to the within facts I could and would competently do so.
2. Attached hereto as Exhibit 1 are true and correct copies of the Parties' PAGA Settlement Agreement and the Addendum thereto. Attached hereto as Exhibit 2 is a true and correct copy of Plaintiff Molina's PAGA notice letter and proof of submission. Attached hereto as Exhibit 3 is a true and correct copy of Plaintiffs PAGA notice letter and proof of submission. Attached hereto as Exhibit 4 is a true and correct copy of proof of submission of the operative complaint to the Labor & Workforce Development Agency. Attached hereto as Exhibit 5 is a true and correct copy of proof of submission of the proposed settlement to the LWDA.
3. I am unaware of any other class and PAGA action that alleges claims that would overlap with the claims being resolved in this matter.

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4. Defendants own and operate a chain of Mediterranean fast-casual dining restaurants and operate around 22 separate restaurants across California. Defendants employed Plaintiffs as non-exempt employees in California during the PAGA Period.

5. Plaintiff Alejandro worked for Defendants as an hourly-paid, non-exempt employee from approximately April 2018 to June 2021. Plaintiff Merino worked for Defendants at their Rancho Cucamonga location from January 2021 to June 2021. Plaintiff Ceballos worked for Defendants at their Eastvale location from April 2021 to August 2021 as a non-exempt Cashier. Plaintiff Molina worked for Defendants at two of their California locations, Play Vista and Long Beach, as a non-exempt server from 2013 to April 2023. Plaintiff Ascencio worked for Defendants at the Long Beach location as a non-exempt server from October 2021 through July 2023. Finally, Plaintiff Aparicio worked for Defendants at the West Hollywood, Santa Monica, and Century City locations as a non-exempt server/busser from March 2012 to November 2023.

1 6. On January 28, 2022, Plaintiff Alejandro commenced this Action by filing a
2 Complaint in San Bernardino County Superior Court, case number CIVSB2202254, seeking civil
3 penalties pursuant to the PAGA for wage-and-hour claims, including failure to pay minimum and
4 straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to
5 authorize and permit rest periods, failure to timely pay final wages at termination, and failure to
6 provide accurate itemized wage statements. After being ordered to arbitrate her individual
7 claims, she filed a demand for arbitration with AAA on August 19, 2024, AAA Case No. 01-24-
8 0007-3780, for wage-and-hour claims, including failure to pay minimum and straight time wages,
9 failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest
10 periods, failure to timely pay final wages at termination, and failure to provide accurate itemized
11 wage statements.

12 7. On February 28, 2022, Plaintiff Ceballos commenced his action by filing a class
13 action complaint in San Bernardino County Superior Court, case number CIVSB2203838,
14 seeking damages for wage-and-hour claims, including minimum and overtime wages, failure to
15 provide meal and rest periods, failure to provide accurate itemized wage statements, failure to
16 reimburse for all business expenses, and failure to pay all wages when due. On May 11, 2022,
17 Plaintiff Nicholas Ceballos filed a separate PAGA complaint in the San Bernardino County
18 Superior Court, case number CIVSB221003, seeking penalties pursuant to PAGA for the same
19 underlying Labor Code claims as the class action complaint. On May 31, 2022, he voluntarily
20 dismissed his class action complaint, and subsequently was ordered to arbitrate his individual
21 claims. On January 27, 2023, he submitted his Demand for Arbitration with Judicial Arbitration
22 and Mediation Services (“JAMS”), case number 1200060472, seeking damages for individual
23 claims, including minimum and overtime wages, failure to provide meal and rest periods, failure
24 to provide accurate itemized wage statements, failure to reimburse for all business expenses,
25 failure to pay all wages when due, failure to pay sick pay wages, and penalties pursuant to PAGA.

26 8. On November 9, 2022, Plaintiff Molina commenced her action by filing a class
27 action complaint in Los Angeles County Superior Court, case number 22STCV35622, seeking
28 damages for wage-and-hour claims, including failure to pay minimum and straight time wages,

1 failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest
2 periods, failure to timely pay final wages at termination, and failure to provide accurate itemized
3 wage statements. On November 23, 2022, Plaintiff Adriana Molina filed a separate PAGA
4 complaint in the Orange County Superior Court, case number 30-2022-01293213-CU-OE-CXC
5 seeking penalties for the same underlying Labor Code claims as her class action complaint. After
6 both of actions were ordered to individual arbitration, she filed a demand for arbitration with
7 Judicate West on June 6, 2024, case number A319478, alleging wage and hour claims, including
8 failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide
9 meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at
10 termination, and failure to provide accurate itemized wage statements.

11 9. On June 27, 2024, Plaintiff Ascencio filed his Demand for Arbitration with
12 Judicate West, case number A318243 seeking damages for individual claims, including failure to
13 pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal
14 periods, failure to authorize and permit rest periods, failure to timely pay final wages at
15 termination, and failure to provide accurate itemized wage statements. Likewise, on June 28,
16 2024, Plaintiff Aparicio filed his Demand for Arbitration with Judicate West, case number
17 A318269 seeking damages for individual claims, including failure to pay minimum and straight
18 time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize
19 and permit rest periods, failure to timely pay final wages at termination, and failure to provide
20 accurate itemized wage statements.

21 10. Once the arbitration issues for all cases were resolved, and after Plaintiffs
22 submitted their respective arbitration demands, the Parties eventually agreed to attempt a global
23 mediation of all cases and claims. They also agreed to and did informally exchange information
24 to permit all parties to evaluate Plaintiffs' allegations. Through this informal discovery,
25 Defendants provided Plaintiffs with information including, inter alia, Plaintiffs' personnel files,
26 the number of potential Aggrieved Employees, the number of aggregate pay periods, pay stubs
27 and time records for a sampling of about ___% of the Aggrieved Employees, and relevant policies
28 regarding Defendants' time keeping and reporting policies and meal and rest break policies,

1 among other pertinent materials.

2 11. The Parties then participated in a mediation on May 16, 2024 with Todd A. Smith,
3 Esq., a highly respected professional neutral with extensive experience mediating wage and hour
4 class and PAGA matters. After a full-day of negotiations, the Parties did not reach a resolution.
5 However, the Parties continued to engage in subsequent settlement negotiations through Mr.
6 Smith that ultimately led to this Agreement to settle the Action. The Parties subsequently
7 formalized their tentative settlement in the Settlement Agreement now before the Court for
8 approval.

9 12. Finally, in order to fully effectuate the tentative global settlement, Plaintiffs filed a
10 Stipulation and Proposed Order to file an amended complaint in this matter on July 21, 2026,
11 which remains pending. The amended complaint will include all Plaintiffs as party-plaintiffs and
12 otherwise conforming the operative complaint's allegations to the terms of the proposed
13 settlement. For the same reasons, Plaintiff Alejandro submitted an amended PAGA notice to the
14 LWDA incorporating all plaintiffs and all claims alleged in the various matters and that are being
15 resolved via this settlement. A copy of that PAGA notice is attached to the Declaration of
16 Benjamin Haber, filed herewith.

17 **SUMMARY OF SETTLEMENT TERMS**

18 13. Under the settlement, Defendants will pay a non-reversionary settlement amount
19 of \$933,750 (the "Gross Settlement Amount" or "GSA"). The GSA is inclusive of payments to
20 the LWDA and Aggrieved Employees, costs of settlement administration (estimated at no more
21 than \$14,490), service awards to the Plaintiffs, and reasonable attorney's fees and costs.
22 Plaintiffs' counsel collectively request 1/3 of the GSA (\$311,250) in fees and costs of \$68,803.25.
23 Plaintiffs each request an enhancement of \$15,000 (\$75,000 total) for their service as PAGA
24 representatives, and for providing a full general release and dismissing their pending individual
25 arbitrations. After payment of settlement administration costs, Plaintiffs' service awards, and
26 reasonable attorney's fees and costs from the GSA, Plaintiffs presently estimate about
27 \$464,206.75 will remain (the "Net Settlement Amount" or "NSA"). Seventy-five percent of the
28 NSA (about \$348,155.06) will go to the LWDA, and the remaining 25% (about \$116,051.69) will

1 be distributed to the Aggrieved Employees in proportion to the total number of Pay Periods each
2 individual worked during the PAGA Period. I estimate the average award will be about \$35.17
3 per individual.

4 13. The Parties propose using Apex Class Action, LLC as the Settlement
5 Administrator. Atticus has extensive experience administering PAGA settlements, and has agreed
6 to cap its fees at \$14,490.00. Defendants will fund the GSA within 14 days of the Effective Date,
7 and within 14 days after funding Apex will mail a Notice and settlement check to all Aggrieved
8 Employees via regular First-Class U.S. Mail, using the most current, known mailing addresses
9 identified in Defendants' records. Aggrieved Employees need not submit claim forms and will
10 automatically receive a Notice and settlement check. Settlement checks will be negotiable for 180
11 days, after which time any unclaimed residual funds will be forwarded to the California State
12 Controller's Unclaimed Property Fund.

13 15. The California Supreme Court has explained that a judgment in "a representative
14 action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of
15 2004 ... is binding not only on the named employee plaintiff but also on government agencies and
16 any aggrieved employee not a party to the proceeding." Arias v. Superior Court (2009) 46 Cal.4th
17 969, 985-86. Accordingly, the release in the Settlement Agreement narrowly releases only civil
18 penalty claims brought under PAGA. Under Arias, the order the Parties request the Court enter is
19 intended to be "binding not only on the named employee plaintiff but also on government
20 agencies and any aggrieved employee not a party to the proceeding." The Settlement Agreement
21 protects the rights of the Aggrieved Employees to bring their own individual claims should they
22 wish. For these reasons, the Parties contend the release narrowly applies only to the PAGA claims
23 alleged, and the Settlement Agreement specifically provides the Release is inapplicable to any
24 claims other than those brought under PAGA.

25 **NATURE OF THE ALLEGED VIOLATIONS**

26 16. Plaintiffs first contend Defendants failed to pay at least the applicable minimum
27 wage for all hours worked and that Defendant required Plaintiffs and the Aggrieved Employees to
28 frequently work off the clock. Namely, Plaintiffs allege employees were often instructed to

1 perform work related duties while clocked out for meal periods at times when the restaurants
2 were understaffed or busy, and were not permitted to clock in early from their meal periods so
3 that they could be paid for those hours worked. Additionally, Plaintiffs and the Aggrieved
4 Employees were required to clock out at the end of their scheduled shifts and continue working in
5 order complete various job tasks. Plaintiffs claim further they could lose anywhere from 5-20
6 minutes in a shift waiting in line to clock in with other employees, and lost additional time
7 changing into their work uniforms before being allowed to clock in. As held by the California
8 Supreme Court, all spent under the employer's control, even if minimal, must be accounted and
9 paid for as even small increments of unpaid hours worked can add up over time.

10 17. Plaintiffs next contend Defendants failed to pay all wages due because it did not
11 pay overtime and sick pay wages based on the correct "regular rate" of pay, and instead paid for
12 overtime based on employees' base hourly wage without accounting for various forms of other
13 non-discretionary pay received by the aggrieved employees in addition to their base hourly pay.
14 Here, Plaintiffs contend employees regularly received non-hourly bonus pay, including pay codes
15 "BONUS," "BONUS QTLY," "QUARTERLY BONUS," and "BONUS 202," that Defendants
16 failed to factor into the "regular rate" of pay. Per Plaintiffs, this resulted in the underpayment of
17 overtime, sick time and meal period premiums for all pay periods where an employee both had
18 sick time or a meal period violation and earned any kind of non-discretionary bonus pay.

19 18. On the meal break claims, Plaintiffs allege that even though Defendants' written
20 meal and rest period policies both are facially non-compliant in multiple respects, including a
21 prohibition on leaving the work premises during a meal or rest period. Further, Plaintiffs alleged
22 that as applied there were substantial "de facto" violations for lunches that either were missed
23 completely, untimely, or cut short. Per Plaintiffs' experts' review, the data suggested around
24 58.8% of the pay periods at issue had at least one unique meal period violation, and that there
25 were over 123,000 unique meal violations during the PAGA Period. Plaintiffs further contend the
26 data shows that PKG only paid the required premium payment for about 4.4% of the alleged
27 violations.

28 19. On the rest break claims, Plaintiffs likewise alleged employees did not receive all

1 required rest breaks and argued that Plaintiffs and other Aggrieved Employees regularly worked
2 through rest periods in order to meet the demands of their jobs, and also that PKG imposed
3 limitations, such as a prohibition on napping or texting, on how employees could use their break
4 time and accordingly employees were not completely free of employer control while on a break.

5 20. On the expense reimbursement claim, Plaintiffs allege employees had to use
6 personal cell phones for work-related reasons, and further had to purchase, launder and maintain
7 their work uniforms. An employer must reimburse employees for use of personal devices, and if
8 the employee has an unlimited monthly plan, then the employer must reimburse an amount that
9 equates to the employee's percentage of use for work.

10 21. Finally, Plaintiffs also allege claims derivative of the foregoing claims, including a
11 derivative wage statement claim based on the failure to pay all wages due, and failure to pay all
12 wages due and owing upon separation of employment under Labor Code §§ 201-203.

13 **NUMBER OF ALLEGED VIOLATIONS AND POTENTIAL PENALTIES**

14 22. Defendants indicated they employed approximately 3,095 non-exempt employees
15 in California during the relevant time frame, and these individuals worked approximately 83,000
16 pay periods during that time. Based on the data provided by Defendants, Plaintiffs estimated
17 Defendants' maximum PAGA exposure at approximately \$38,433,300, including around
18 \$8,300,000 on the unpaid wage/off the clock claim, approximately \$204,700 on the unpaid
19 wage/regular rate claims, about \$4,804,000 on the meal period claims, \$8,300,000 on the rest
20 period claims, \$8,300,000 on the wage statement claims, \$8,300,000 on the expense
21 reimbursement claims, and about \$188,600 in civil penalties for failing to timely pay wages on
22 separation of employment.

23 23. We calculated these estimates as follows:

24 **Unpaid Wages/Off the Clock**

25 83,000 pay periods * 100% violation rate * \$100/violation = \$8,300,000

26 **Unpaid Wages (overtime, sick pay, meal break premiums)/Regular Rate**

27 83,000 pay periods * 2.9% violation rate * \$100/violation = \$240,700

28 **Meal Period Violations**

83,000 pay periods * 58.8% violation rate * \$100/violation = \$4,804,000

Rest Period Violations

83,000 pay periods * 100% violation rate * \$100/violation = \$8,300,000

Expense Reimbursement Violations

83,000 pay periods * 100% violation rate * \$100/violation = \$8,300,000

Wage Statement Violations

83,000 pay periods * 100% violation rate * \$100/violation = \$8,300,000

Untimely Final Wages

1,886 former employees * 1 violation/employee * \$100/violation = \$188,600

**THE SETTLEMENT MEETS THE KULLAR FACTORS, INCLUDING THE
STRENGTH OF PLAINTIFFS' CASE, THE DISCOVERY PERFORMED, AND
AMOUNT OFFERED IN SETTLEMENT**

24. On Plaintiffs' unpaid wage/off the clock claim, Defendants argued their time keeping policies accurately tracked and paid for all hours worked by its employees, and did not deprive aggrieved employees of compensable hours worked. PKG also emphasized that its policies strictly prohibited any "off the clock work," that employees were neither asked nor required to work "off the clock" during a lunch or after clocking out, and to the extent it happened it was done without management's knowledge or consent. Defendants further argued proving this claim would require hundreds of individualized inquiries and would be impossible to resolve on a representative basis. Similarly, on the regular rate claim, PKG contended its payroll policies properly compensated employees at the correct rates of pay, and that employees received all required overtime pay, sick pay, and meal period premium pay at the correct hourly rate.

25. On the meal break claims, Defendants offered multiple defenses. First, it emphasized it authorized and permitted all necessary breaks, and that employees received full uninterrupted lunch periods as reflected in its time records. Defendants further argued that even to the extent meal or rest breaks were missed or arguably non-compliant, it was in violation of company policy and aberrational, and would require significant individual inquiries to determine the reasons underlying any such alleged violations and whether it was by employee choice or some other reason. Thus, per Defendants, any trial on this issue would be unmanageable because

1 of these individualized issues. Defendants further emphasized that they paid thousands of meal
2 period premiums during the PAGA Period, and likewise argued that many employees waived
3 their rights to a first meal period on shifts of 5-6 hours, and their rights to a second meal period on
4 shifts of 10+ hours. For these reasons, PKG argued the actual number of potentially actionable
5 violations would be minimal at best, and that it compensated employees with the required
6 premium pay when required to do so.

7 26. As with meal breaks, Defendants argued the applicable rest break policies
8 complied with California law, and that it authorized and permitted employees to take all required
9 breaks, that such breaks were a net 10 minutes and otherwise fully compliant, and employees
10 could leave the premises. Further, per Defendants, in light of the fact that it is not required to
11 maintain a record of rest periods, any evidence of failure to authorize rest periods and/or
12 discouragement from taking rest periods would be purely anecdotal and individual issues would
13 predominate on liability. This arguably would once again make a trial unmanageable since the
14 number of instances an employee missed a rest break would have to be tested on a case-by-case
15 basis to determine compliance.

16 27. For Plaintiffs' expense reimbursement claim, Defendants emphasized their written
17 policies prohibited employees from using their own phones while on the clock and working.
18 Beyond that, Defendants argued there would be no need for employees to use their phones while
19 working, and if they did it was purely for personal convenience and therefore it was not
20 reimbursable as a "necessary" business expense under Labor Code § 2802.

21 28. Plaintiffs also alleged derivative violations of Labor Code § 226 (wage statement
22 violations) and §§ 201-203 (waiting time penalties). Both claims, since they are entirely
23 derivative, will rise or fall along with the primary claims, in addition to being subject to "good
24 faith" and other defenses available to Defendants. Accordingly, Plaintiffs had to discount the
25 value of these claims significantly in light of these multiple potential defenses. Defendants also
26 contended a substantial discount should be applied to the civil penalties for these derivative (i.e.,
27 "stacked") violations, as it would be unfair to penalize Defendants multiple times for the same
28 violation.

29. Defendants also emphasized PAGA gives the Court wide latitude to reduce the amount of civil penalties “based on the facts and circumstances of a particular case” if “to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” I am aware of numerous state and federal courts in California that have applied significant reductions to PAGA civil penalties even after plaintiffs prevailed on the merits, and we accounted for this probability in evaluating the settlement.

30. Defendants raised various and multi-layered defenses to each of Plaintiffs' claims, anyone of which, if successful, could have derailed Plaintiffs' case. And Defendants vowed to raise all these defenses at trial. Accordingly, Plaintiffs faced risky issues going forward with litigation, and it could have taken years to realize any recovery in this action along with the possibility of post-trial appeals. In addition to its merits defenses and arguing trial would be unmanageable, Defendants also intended to raise additional defenses on damages, including the proper measure of civil penalties and the appropriate discount to place on any assessment of such penalties.

31. Although Plaintiffs, co-counsel and I believe they could have prevailed, there was no such guarantee. When the risks of overcoming a manageability defense, prevailing at trial on the merits on all claims, securing the maximum theoretical civil penalties, and appellate risks all are factored into the equation, the settlement value is reasonable and supported. Of course, to recover anywhere near the maximum penalties Plaintiffs would have to shoot for the moon and win both liability and maximum penalties on all claims for every single pay period at issue, which outcome, for the reasons discussed, is unlikely. Given Defendants' various procedural and merits defenses, as well as the substantial penalty reductions ordered in the cases above – which occurred after trial – the proposed settlement is reasonable.

SUBMISSION TO THE LWDA

32. Plaintiffs timely provided the LWDA with the Settlement Agreement and this Motion, and notified the LWDA of this approval hearing via the LWDA's online portal. Accordingly, the LWDA will be able to weigh in as necessary and, importantly, many courts find it persuasive of approval if the LWDA ultimately declines to offer any comment or objection to a

1 proposed PAGA settlement.

2 **THE REQUESTED ENHANCEMENT AWARDS ARE FAIR AND REASONABLE**

3 33. Pursuant to the terms of the settlement, Plaintiffs seek reasonable incentive awards
4 of \$15,000 each (\$75,000 total) for their service in bringing these claims on behalf of the State
5 and Aggrieved Employees, for agreeing to a full general release of claims against Defendants and
6 not just the far more limited release applicable to the Aggrieved Employees, and for dismissing
7 their individual arbitrations. These requests are reasonable given the risks they undertook on
8 behalf of the Class Members, and by contacting and retaining counsel to pursue these claims,
9 Plaintiffs helped make this settlement possible for the absent Class Members, while shouldering
10 the risk of being liable for Defendant's litigation costs. Plaintiffs also exposed themselves to
11 unwanted notoriety related to filing a public lawsuit (discoverable even through a simple google
12 search) for the benefit of other employees, placing them at risk of discrimination by future
13 prospective employers. As set forth in more detail in their respective declarations filed herewith,
14 among taking many other actions assisting in the successful litigation of this case, Plaintiffs
15 provided substantial factual information and documents to counsel, attended numerous
16 meetings/phone conferences with counsel to discuss the case, and kept abreast of all significant
17 developments.

18 **THE REQUESTED FEES AND COSTS ARE FAIR AND REASONABLE**

19 34. Under the terms of the Settlement Agreement, co-counsel and I respectfully
20 request an award of attorney's fees to Plaintiffs' counsel equal to 1/3 of the total settlement
21 amount, or \$311,250. A one-third common fund attorney fee award is consistent with what
22 courts have awarded my office in other representative actions, and a one-third award is favored
23 by California courts when a fund established for the common benefit of others is involved, such
24 as here. Plaintiffs' counsel will split any fees awarded as follows: Wilshire Law Firm 40%,
25 Crosner Legal 30%, and Blumenthal Nordrehaug et al. 30%. All Plaintiffs have been informed of
26 the proposed fee split and consented thereto in writing.

27 35. There are several additional factors why I believe that the Court should award one-
28 third of the common fund as a reasonable attorney's fee. First, counsels' collective efforts resulted

1 in a common fund settlement amount of \$311,250, which for the reasons explained, is fair and
2 reasonable in light of the risks/defenses Defendants raised in litigation and threatened to raise at
3 trial and in post-trial appeals. Further, this is a significant sum that furthers the purposes
4 underlying PAGA such as augmenting the state's enforcement capabilities, encouraging
5 compliance with Labor Code provisions, and deterring future non-compliance. Moreover, this
6 result was achieved by the work and success of this office and our co-counsel, who negotiated the
7 settlement after extensive preparation, law and motion, informal discovery, and an adversarial
8 mediation and extensive follow up negotiations.

9 36. Second, Plaintiffs faced significant risks going forward with the litigation. As
10 discussed above, Defendants raised various defenses to their claims, anyone of which, if
11 successful, could have decimated Plaintiffs' case. Plaintiffs faced risky legal issues going forward
12 with this litigation, and it would have taken several more years to realize any recovery in this
13 action along with the possibility of post-trial appeals,

14 37. Third, Plaintiffs' counsel collectively are experienced class and representative
15 action litigators, and collectively have achieved numerous approved PAGA settlements. This
16 experience and expertise, combined with the high quality of work performed, resulted in the
17 settlement achieved in this case.

18 38. I am a partner with Crosner Legal and head of the firm's Wage & Hour practice
19 group. I graduated from the University of California, San Diego in 2004 and graduated from
20 California Western School of Law in 2013, and have been a member of the California Bar since
21 2013. Over the past 11 plus years I've gained extensive experience in wage and hour litigation,
22 beginning work as a class action attorney in 2015 at the Mara Law Firm, PC (previously Turley
23 & Mara Law Firm, APLC; Turley Law Firm, APLC). I have handled wage and hour class
24 actions and PAGA lawsuits almost exclusively for some 11 years and have assisted in obtaining
25 millions of dollars for employees during my years of practice.

26 39. Zach Crosner is a 2010 graduate of University San Diego School of Law, and has
27 some 15 years of experience as a practicing attorney, all of which have focused on litigation of
28 employment, labor law, consumer, and class action claims. Following graduation, he

1 immediately began working for a nationally recognized plaintiff's complex litigation firm,
2 CaseyGerry, where he had the fortune of working directly with past presidents of the consumer
3 attorneys and recipients of trial attorneys of the year awards. He also worked for former
4 CAALA and CLAY trial attorney of the year recipient, attorney Conal Doyle, as his sole
5 associate attorney. During his tenure at these firms, he focused on advocating for the rights of
6 consumers and employees in class action litigation, civil rights and employment litigation,
7 catastrophic injuries, insurance bad faith and appellate litigation.

8 40. In 2013, Mr. Crosner founded the law firm of Crosner Legal, P.C. which since its
9 inception has focused almost exclusively on wage and hour class actions and other labor and
10 employment law cases representing plaintiffs. Currently, over ninety percent (90%) of his
11 practice is dedicated exclusively to the prosecution of wage and hour class actions, and Crosner
12 Legal is currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty
13 (50) wage and hour class actions and/or PAGA representative actions in both federal and state
14 courts throughout California.

15 41. Mr. Crosner currently is an executive board member of the Wage and Hour
16 Committee and the Legislative Committee for the California Employment Lawyers Association;
17 a member of the Grassroots Advocacy Team for the National Employment Lawyers
18 Association; Wage and Hour Committee member and Class Action Committee member for the
19 National Trial Lawyers; a member of the American Association for Justice; and member of the
20 Pound Civil Justice Institute. He was selected for 2018-20 by Super Lawyers as a "Southern
21 California Rising Star" for employment and labor law.

22 42. Branden Hamilton obtained her undergraduate degree from UCLA in 2004, and
23 her law degree from George Washington University in 2007. She has been affiliated with my
24 firm since 2017 and became Of Counsel with Crosner Legal in 2019, and her practice focuses
25 almost exclusively on wage and hour class and representative actions. She has spent her entire
26 career representing plaintiffs in employment litigation, including several years as an associate at
27 well-known plaintiff's firm Carlin & Buchsbaum.

28 43. Kiara Bramasco received her undergraduate degree, magna cum laude, from

1 Loyola Marymount University in Political Science, and then received her JD from Loyola Law
2 School in 2018. She then spent several years with well-known plaintiff's firm Moss Bollinger,
3 first as a law clerk and then as an associate, where her practice focused on employment law,
4 particularly wage and hour class action and PAGA litigation. She joined Crosner Legal in 2021.

5 44. Sepideh Ardestani is a former partner with Crosner Legal, and she was with the
6 firm from 2021-2026. She graduated from the University of California, Los Angeles in 2004
7 with a bachelor's in science, obtained a J.D. from Whittier Law School in 2009 and a masters in
8 law from Santa Clara University School of Law in 2010. She has been a member of the
9 California Bar since 2010 and has extensive experience in employment matters, including wage
10 and hour litigation. She worked as a wage and hour class action attorney at Gaines & Gaines,
11 APLC from 2012 through 2021 and, prior to joining Gaines & Gaines she worked at Sirkin Law
12 Group as a litigation associate from 2010-2012. She was selected for 2020-2021 by Super
13 Lawyers as a "Southern California Rising Star" for employment and labor law.

14 45. Matthew Crawford is a partner at Crosner Legal, PC. He primarily handles wage
15 and hour class actions and representative actions. Mr. Crawford graduated from Pepperdine
16 University Rick J. Caruso School of Law and received his undergraduate degree from
17 University of California, San Diego in 2011. Mr. Crawford was admitted to practice law in
18 California in June 2016, as well as in Washington in April 2026. Mr. Crawford has been
19 litigating wage and hour class actions for over nine (9) years and has handled over two hundred
20 (200) class and representative action lawsuits.

21 46. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
22 action settlements while serving as lead class counsel in recent years, including but not limited to
23 a \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
24 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
25 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
26 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
27 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a
28 \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc.*

1 *dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and
2 hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160
3 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v.*
4 *Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.), a
5 \$1.15 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*,
6 Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action
7 settlement in 2020 in *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case No. 18CV323753
8 (Santa Clara Cty. Super Ct.); a \$2.2 million wage and hour class action settlement in 2021
9 (*Ghorchian, et al. v. West Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty. Super.
10 Ct.)); a \$2.85 million dollar wage and hour settlement in 2021 (*Valencia v. The Original*
11 *Mowbray's Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1
12 million wage and hour class action settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No.
13 21CV382467 (Santa Clara Cty. Super. Ct.)), a \$1.4 million wage and hour class action settlement
14 in 2023 in *Correa, et al. v. FedEx Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino
15 Cty. Super. Ct.), a \$2.38 million wage and hour class action settlement in 2023 in *Michel, et al. v.*
16 *Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million
17 wage and hour class action settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No.
18 CIVDS1931464 (San Bernardino Cty. Super. Ct.); \$1.015 million wage and hour class action
19 settlement in 2023 in *Gotishan v. Kyo Autism Therapy*, Case No. CGC-21-596378 (San Francisco
20 Cty. Super. Ct); and a \$1.15 million wage and hour PAGA settlement in 2023 in *Vaughn v.*
21 *Public Health Foundation Enters., Inc.*, Case No. 21STCV18512 (Los Angeles Cty. Super. Ct.); a
22 \$1.5 million wage and hour class action settlement in *McKinnie v. Iron Mountain*, Case No.
23 21STCV05707 (Los Angeles Cty. Super. Court); a \$1.3 million wage and hour class action
24 settlement in *Ellsworth, et al. v. Hallcon*, Case No. 20STCV06618 (Los Angeles Cty. Super.
25 Court); a \$1.925 million wage and hour class settlement in 224 in *Lo v. Cyberpower, Inc.*, Case
26 No. 21STCV31479 (Los Angeles Cty. Super. Ct); a \$1.19 million dollar wage and hour class
27 action settlement in 2024 in *Herrera v. Signature Flight Support LLC*, Case No. 22STCV18367
28 (Los Angeles Cty. Super. Ct.); a \$2.65 million wage and hour class action settlement in 2024 in

1 *Shilevinatz v. Airport Terminal Services*, Case No. CIVSB2229072 (San Bernardino Cty. Super
2 Ct.) and a \$1 million wage and hour class action settlement in 2025 in *Hernandez v YZER, LLC*,
3 Case No. 23CV025345 (Alameda Cty. Superior Ct).

4 47. Based upon the qualifications and experience set forth above, the following hourly
5 rates are reasonable for attorneys practicing in this area of the law in California: Zachary M.
6 Crosner \$900/hour, Jamie K. Serb, \$800/hour, Kiara Bramasco and Branden Hamilton \$650/hour,
7 Matthew Crawford \$900/hour.

8 48. I request the Court apply the above hourly billing rates in this case, as it reasonable
9 in the California legal market for attorneys handling wage and hour class and PAGA actions. I
10 have personal knowledge of the hourly rates charged by a number of plaintiff-side wage and hour
11 class action firms in major California legal markets for partner-level attorneys with experience
12 comparable to mine. These rates have ranged from \$750 to \$900 per hour for calendar years
13 2018-2023. Some examples include attorney Ron Makarem of Makarem & Associates in Los
14 Angeles, with 28 years of experience, \$900/hour (2023), Matthew Matern of Matern Law Group
15 in Los Angeles, with approximately 26 years of experience \$850/hour (2018); Craig Ackermann
16 of Ackermann & Tilajef, PC in Los Angeles with approximately 25 years of experience
17 \$850/hour (2021), Michael Singer and Isam Khoury of Cohelan Khoury & Singer in San Diego,
18 35 years and 45 years of experience respectively, both \$825/hour (2018), Zachary Crosner of
19 Crosner Legal PC in Los Angeles, 13 years of experience \$750/hour (2022), and James Kawahito
20 of Kawahito Law Group in Los Angeles, with approximately 16 years of experience \$750/hour
21 (2020).

22 49. The requested rates also comport with the adjusted Laffey Matrix, which provides
23 that reasonable hourly rates for attorneys with 10+ years of experience, such as Mr. Crosner and
24 myself, are well over \$800/hour. The adjusted Laffey Matrix may be found at
25 <http://www.laffeymatrix.com/see.html>.

26 50. Fourth, our office, along with co-counsel, has been representing Plaintiff (and the
27 State of California) in this matter on a strictly contingent basis and as such, had to forego other
28 financial opportunities to litigate other cases, incurred the risk of non-recovery after a substantial

1 investment of time, money, and resources, and have done so since the inception of this case
2 without any payment or compensation. This is not an easy burden for a small firm. If, despite
3 these hardships and risks, the best this office could hope for is merely to be paid our customary
4 hourly rate multiplied by the number of hours worked on the case, then we would not be
5 compensated for the hardships and serious risks it faced litigating this contingency case, and
6 would not be incentivized to take on similar private attorney general cases in the future.

7 51. Fifth, the request for attorney's fees in the amount of one-third of the common
8 fund falls well within the norms accepted by state and federal courts in California in comparable
9 wage and hour actions actually handled by this office. Moreover, the award of a one-third fee
10 recovery under the common fund doctrine was recently approved by the California Supreme
11 Court in Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480. For all of the above reasons, a
12 common fund fee award here in the amount of one-third of the \$933,750 common fund, or
13 \$311,250, is fair and reasonable.

14 52. I have reviewed the work performed on the case and the billing inputted, and
15 Crosner Legal's hours worked on this case total 245.5 attorney hours. Accordingly, Crosner
16 Legal's lodestar totals approximately \$196,290, exclusive of time for attending the hearing on the
17 approval motion and time to be incurred thereafter to implement and administer the settlement.
18 Crosner Legal's aggregated lodestar is summarized in Exhibit 6 hereto. When combined with our
19 co-counsel's respective lodestars, the total lodestar for all counsel is \$480, 293.75

20 53. As noted, we have represented Plaintiffs and the Aggrieved Employees for over
21 two years with respect to this matter and have expended a significant amount of time and
22 resources in that representation. Crosner Legal agreed to litigate this case on a purely contingent
23 basis and in so doing assumed considerable risk of non-payment for its fees and costs, as
24 discussed above, and as is the case with these matters in general. Under all relevant factors as
25 outlined herein, in our co-counsel's declarations, and in the accompanying memorandum, I
26 respectfully request the Court award the requested fees of \$311,250.00 based on the common
27 fund theory with a corresponding lodestar cross-check and no lodestar modifier. Counsel will
28 split any fees awarded as follows: Wilshire Law Firm 40%; Crosner Legal 30%, and Blumenthal

Nordrehaug Bhowmik De Blouw 30%, and all Plaintiffs have been informed of the proposed fee split and consented thereto in writing.

54. I also request reimbursement of Crosner Legal's actual out-of-pocket expenses incurred to prosecute this action, along with our co-counsel's respective costs. These expenses were incidental and necessary to the effective representation of the employees.

55. Crosner Legal's costs are \$18,597.69, including court filing/service of process fees, expert witness fees, postage, and mediation fees. The requested costs are reasonable and uncontested and should be approved and a true and correct itemization of the costs and expenses incurred is set forth below:

Expense Category	Amount
Court Filing Fees/Service of Process/Attorney Service	\$9,432.61
Mediation Fees	\$3,000.00
Case Anywhere Charges	\$1,141.80
Postage/Delivery	\$903.88
Deposition Costs	\$3,969.4
PAGA Filing Fee	\$150.00
Total Costs and Expenses	\$18,597.69

When combined with our co-counsel's costs, the total amount requested by all counsel is \$68,803.25. I therefore request the Court approve reimbursement of costs of \$68,803.25 to Plaintiffs' counsel, consistent with cap under the Settlement Agreement.

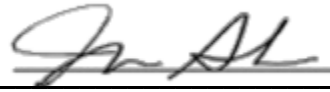
56. For the foregoing reasons, it is respectfully requested that the Court approve the settlement.

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I declare under penalty of perjury under the laws of the State of California that the

foregoing is true and correct. Executed on August 26, 2026, at Santee, California.



Declarant

Exhibit 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Erika Lizeth Merino Alejandro, Nicholas Ceballos, Adriana Molina, Job Ascencio, and German Aparicio (collectively, “Plaintiffs”) and Defendants (defined below in Paragraph 1.9). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff Erika Lizeth Merino Alejandro’s PAGA lawsuit alleging wage and hour violations against Defendants, captioned *Erika Lizeth Merino Alejandro v. Santa Eastvale, Inc., et al.*, Case No. CIVSB2202254, pending in Superior Court of the State of California, County of San Bernardino.
- 1.2. “Administrator” means the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Defendants who worked in California as a non-exempt employee at any time during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendants’ possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Approval Order” means the Court Order Granting Approval of PAGA Settlement.
- 1.8. “Court” means the Superior Court of California, County of San Bernardino.
- 1.9. “Defendants” means Santa Eastvale, Inc., PKG Catering, Inc., Santa Corona Del Mar Investments, Inc., Santa UTC, Inc., Santa Mission, Inc., Santa Century, Inc., Santa LBX, Inc., Santa Los Olivos, Inc., Santa Broadway, Inc., Santa Mix, Inc. Santa Florita Investments, Inc., Santa Cerritos, Inc., Santa Jamboree Investments, Inc., Santa Play Vista Panini Investments, Inc., Santa Miguel, Inc., Santa Victoria Investments, Inc., Santa Monica Panini Investments, Inc., Santa Brassy, Inc., San Pedro, Inc., Santa Crown,

Inc. Sanana, Inc. MAH, Inc., Santa Culver, Inc., Santa Central, Inc., Santa Marina, Inc., Santa Paseo, Inc., Santa Van Nuys, Inc., Saint Real, Inc., Saint UTC, Inc., Santa Galleria, Inc., Farm Food, Inc., Santa Escondido, Inc., Santa Sunset, Inc., Santa Northridge, Inc., and Saint Park, Inc.

- 1.10. “Defense Counsel” means Brian Mills and Anne Dwyer of SNELL & WILMER L.L.P.
- 1.11. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment assuming no appeal is filed; or (b) if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for writs of certiorari) resulting in final judicial approval of the Settlement.
- 1.12. “Gross Settlement Amount” means \$933,750.00 which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Representative Service Awards, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment.
- 1.13. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.14. “Judgment” means the judgment entered by the Court based upon the Approval Order.
- 1.15. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.16. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.17. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Representative Service Awards, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees and the LWDA as PAGA Penalties.
- 1.18. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.19. “PAGA Counsel” means WILSHIRE LAW FIRM, PLC (“WLF”), BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP (“BNBD”), and CROSNER LEGAL, PC (“CL”).
- 1.20. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.21. “PAGA Notice(s)” means, collectively, the following letters sent by Plaintiffs to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a): Plaintiff Erika Lizeth Merino Alejandro’s November 23, 2021, January 28, 2022, and April 2026 PAGA notices; Plaintiff Nicholas Ceballos’s November 17, 2021 and February 24, 2022 PAGA notices; Plaintiff Adriana Molina’s August 19, 2022 and November 17, 2022 PAGA notices; Plaintiff German Aparicio’s February 13, 2024 PAGA notice; and Plaintiff Job Ascencio’s September 14, 2023 PAGA notice.
- 1.22. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.23. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.24. “PAGA Period” means the period from November 24, 2020 through September 2, 2025.
- 1.25. “PAGA Representative Service Award” means the payment to Plaintiffs for initiating the Action and providing services in support of the Action.
- 1.26. “Plaintiffs” means Erika Lizeth Merino Alejandro, Nicholas Ceballos, Adriana Molina, Job Ascencio, and German Aparicio.
- 1.27. “Released PAGA Claims” means the claims being released by the Plaintiffs and PAGA Counsel and as described in Paragraph 5 below.
- 1.28. “Released Parties” means: Defendants and each of their past, present, or future owners, parents, subsidiaries, or affiliated entities.
- 1.29. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

- 2.1. On January 28, 2022, Plaintiff Erika Lizeth Merino Alejandro commenced this Action by filing a Complaint in San Bernardino County Superior Court, case number CIVSB2202254, seeking civil penalties pursuant to the PAGA for wage-and-hour claims, including failure to pay minimum and straight time wages, failure to pay overtime

wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, and failure to provide accurate itemized wage statements. Plaintiff Erika Lizeth Merino Alejandro was ordered to arbitrate her individual claims.

- 2.2. Plaintiff Erika Lizeth Merino Alejandro filed a demand for arbitration with AAA on August 19, 2024, AAA Case No. 01-24-0007-3780, for wage-and-hour claims, including failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, and failure to provide accurate itemized wage statements.
- 2.3. On February 28, 2022, Plaintiff Nicholas Ceballos commenced his action by filing a class action complaint in San Bernardino County Superior Court, case number CIVSB2203838, seeking damages for wage-and-hour claims, including minimum and overtime wages, failure to provide meal and rest periods, failure to provide accurate itemized wage statements, failure to reimburse for all business expenses, and failure to pay all wages when due. On May 11, 2022, Plaintiff Nicholas Ceballos filed a PAGA complaint in the San Bernardino County Superior Court, case number CIVSB221003, seeking penalties pursuant to PAGA for the same underlying Labor Code claims as the class action complaint. On May 31, 2022, at Plaintiff Nicholas Ceballos's request, the Court dismissed his class action complaint. Plaintiff was ordered to arbitrate his individual claims.
- 2.4. On January 27, 2023, Plaintiff Nicholas Ceballos submitted his Demand for Arbitration with Judicial Arbitration and Mediation Services ("JAMS"), case number 1200060472, seeking damages for individual claims, including minimum and overtime wages, failure to provide meal and rest periods, failure to provide accurate itemized wage statements, failure to reimburse for all business expenses, failure to pay all wages when due, failure to pay sick pay wages, and penalties pursuant to PAGA.
- 2.5. On November 9, 2022, Plaintiff Adriana Molina commenced her action by filing a class action complaint in Los Angeles County Superior Court, case number 22STCV35622, seeking damages for wage-and-hour claims, including failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, and failure to provide accurate itemized wage statements. On November 23, 2022, Plaintiff Adriana Molina filed a PAGA complaint in the Orange County Superior Court, case number 30-2022-01293213-CU-OE-CXC seeking penalties for the same underlying Labor Code claims as her class action complaint. Both of Plaintiff Adriana Molina's actions were ordered to individual arbitration.
- 2.6. Plaintiff Adriana Molina filed a demand for arbitration with Judicate West on June 6, 2024, case number A319478, alleging wage and hour claims, including failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide

meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, and failure to provide accurate itemized wage statements.

- 2.7. On June 27, 2024, Plaintiff Job Ascencio filed his Demand for Arbitration with Judicate West, case number A318243 seeking damages for individual claims, including failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, and failure to provide accurate itemized wage statements.
- 2.8. On June 28, 2024, Plaintiff German Aparicio filed his Demand for Arbitration with Judicate West, case number A318269 seeking damages for individual claims, including failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, and failure to provide accurate itemized wage statements.
- 2.9. Defendants deny the allegations made by Plaintiffs, deny any failure to comply with the laws identified in the Plaintiffs' separate actions, and deny any and all liability for the causes of action alleged.
- 2.10. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiffs gave timely written notice to Defendants and the LWDA by sending the PAGA Notice(s).
- 2.11. The Parties participated in a mediation on May 16, 2024 that was presided over by Todd A. Smith, Esq. The Parties did not resolve the Action at the May 16, 2024 mediation, but engaged in subsequent settlement negotiations through Mr. Smith that ultimately led to this Agreement to settle the Action.
- 2.12. Prior to mediation, Plaintiffs obtained, through informal discovery, a sampling of time and pay records for the Aggrieved Employees, as well as documents that described Defendants' policies and procedures during the PAGA Period.
- 2.13. As part of the settlement, Plaintiff Erika Lizeth Merino Alejandro agrees to seek to amend the PAGA Action Complaint to add remaining Plaintiffs included in this Settlement and their respective causes of action and all Defendants and send an amended PAGA Notice to add all causes of actions and all Defendants included in all actions and this Settlement, which shall be the "Operative Complaint". The Parties agree that in the event the Court does not grant approval of the PAGA settlement in the PAGA Action, the Parties return to the status quo as existed prior to the date the Parties sign the Agreement, the operative complaint in each lawsuit shall be the operative complaints in each lawsuit prior to this Agreement to settle, and no documents prepared or submitted to the Court relating to this Agreement shall have any impact on or be used for any purpose in the Actions or any other litigation.
- 2.14. Upon the Court entering the Approval Order and Judgment in this Action, Plaintiffs will file such documents and performs such acts as are necessary to withdraw

and/or dismiss with prejudice any and all complaints (other than the Action) and demands for arbitration filed by them.

- 2.15. The Parties, PAGA Counsel and Defense Counsel represent that, other than the actions described in this Agreement, they are not aware of any other pending matters or actions asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay \$933,750.00 and no more as the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount prior to the deadline stated in this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:

- 3.2.1. To Plaintiffs: A PAGA Representative Service Award to Plaintiffs of not more than \$15,000.00 each (\$75,000.00 total), which will be in addition to any Individual PAGA Payment the Plaintiffs are entitled to receive as Aggrieved Employees. Defendants will not oppose Plaintiffs' request for PAGA Representative Service Awards that do not exceed this amount. If the Court approves PAGA Representative Service Awards less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the PAGA Representative Service Awards using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the PAGA Representative Service Awards.
- 3.2.2. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount which is currently estimated to be \$311,250.00 and PAGA Counsel Litigation Expenses Payment of not more than \$50,000.00. Defendants will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Defendants also agree not to oppose a split of the PAGA Counsel Fees Payment as follows: WLF's share will be 40% of the total attorneys' fees awarded, BNBD's share will be 30% of the total attorneys' fees awarded, and CL's share will be 30% of the total attorneys' fees awarded. Plaintiffs and/or PAGA Counsel will file an application or motion requesting the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel

Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$15,000, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$15,000, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount to be paid from the Net Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 3,095 Aggrieved Employees who worked a total of 83,000 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 14 days of the Approval Order, Defendants will deliver the Aggrieved Employee Data to the Administrator in the form of Microsoft Excel spreadsheet(s). To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all PAGA Representative Service Awards, Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment, and PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendants fully fund the entire Gross Settlement Amount, Plaintiffs and PAGA Counsel will release claims against all Released Parties as follows:

5.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred on or before the date of execution of this Agreement, including, but not limited to: all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice(s), all claims arising under any federal, state, or local law, or statute, including, inter alia, those arising under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended), and all claims arising under any law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now knows or believes to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice(s), including but not limited to, any claims for civil penalties based on Defendants' alleged failure to pay minimum, straight time, and overtime wages, failure to pay overtime, break premiums and sick pay and the regular rate of pay, failure to provide legally compliant meal periods, failure to authorize and permit rest periods, failure to timely pay final wages during employment and at termination, failure to provide accurate itemized wage statements, failure to indemnify employees for expenditure, failure to pay sick pay and supplemental sick pay, unlawful deductions, failure to produce records, failure to provide suitable seating, failure to pay tips, unlawful agreements and/or background checks, failure to provide wage notice under

Labor Code section 2810.5, failure to pay reporting time pay, failure to pay final wages at place of discharge, and unfair business practices.

- 5.3. Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice(s).

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiffs, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiffs and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.
- 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected the Administrator and verified that, as a condition of appointment, the Administrator agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have shall have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings, if any, and providing reports state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE. Based on its records, Defendants estimate that, as of the date of this Settlement Agreement, there are approximately 3,095 Aggrieved Employees who worked 83,000 Pay Periods during the PAGA Period. In the event that the actual number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period increases by more than 10% (to more than 91,300 PAGA Pay Periods) then Defendants shall either (a) increase the Gross Settlement Amount on a proportional basis in excess of ten percent (i.e., if there were an eleven percent (11%) increase in the number of PAGA Pay Periods, then Defendants will increase the Gross Settlement Amount by 1%), or (b) roll back the PAGA Period end date to a date not earlier than August 7, 2025 for which the number of PAGA Pay Periods does not exceed 83,000.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not

include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

10.1. No Admission of Liability or Representative Manageability for Other Purposes.

This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.5. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand,

action, cause of action, or right released and discharged by the Party in this Settlement.

- 10.6. No Tax Advice. Neither Plaintiffs, PAGA Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7. No Publicity. Plaintiffs and PAGA Counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about this case and/or the fact, amount or terms of this Settlement. Plaintiff and PAGA Counsel agree that they will not engage in any advertising or distribute any marketing materials relating to this Settlement, including but not limited to any postings on any websites maintained by PAGA Counsel; provided, however, that PAGA Counsel may state that it has settled a PAGA action against restaurant employer so long as neither Defendants nor the Plaintiffs are identified.
- 10.8. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.9. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.10. Applicable Law. All terms and conditions of this Agreement will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.11. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.12. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.13. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendants unless, prior to the Administrator's payment of all Settlement Funds, Defendants make a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

- 10.14. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.15. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.16. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Benjamin H. Haber (benjamin.haber@wilshirelawfirm.com)
Daniel J. Kramer (daniel.kramer@wilshirelawfirm.com)
Chase M. Stern (chase.stern@wilshirelawfirm.com)
Wilshire Law Firm, PLC
660 S. Figueroa St., Sky Lobby
Los Angeles, CA 90017
Telephone: (213) 381-9988

Kyle Nordrehaug (kyle@bamlawca.com)
Blumenthal Nordrehaug Bhowmik De Blouw
2255 Calle Clara
La Jolla, CA 92037
Telephone: 818-451-9265

Sepideh Ardestani (sepideh@crosnerlegal.com)
Jamie K. Serb (jamie@crosnerlegal.com)
Zachary M. Crosner (zach@crosnerlegal.com)
Crosner Legal, P.C.
9440 Santa Monica Blvd., Ste 301
Beverly Hills, CA 90210
Telephone: 866-276-7637

To Defendants:

Brian Mills (bmills@swlaw.com)
Anne Dwyer (adwyer@swlaw.com)
Snell & Wilmer LLP
600 Anton Blvd Ste 1400
Costa Mesa, CA 92626
Telephone: 714-427-7000

10.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

PLAINTIFFS

Dated: 04/15/2026



Erika Merino Alejandro (Apr 15, 2026 11:35:05 PDT)

Erika Lizeth Merino Alejandro
Plaintiff

Dated: _____

Adriana Molina
Plaintiff

Dated: 04 / 20 / 2026



Job Elliot Ascencio
Plaintiff

Dated: 04 / 21 / 2026



German Aparicio
Plaintiff

Dated: _____

Nicholas Ceballos
Plaintiff

10.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

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PLAINTIFFS

Dated: 04/15/2026



Erika Merino Alejandro (Apr 15, 2026 11:35:05 PDT)

Erika Lizeth Merino Alejandro
Plaintiff

Dated: 04 / 26 / 2026



Adriana Molina
Plaintiff

Dated: _____

Job Elliot Ascencio
Plaintiff

Dated: _____

German Aparicio
Plaintiff

Dated: _____

Nicholas Ceballos
Plaintiff

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PLAINTIFFS

Dated: 04/15/2026



Erika Merino Alejandro (Apr 15, 2026 11:35:05 PDT)

Erika Lizeth Merino Alejandro
Plaintiff

Dated: _____

Adriana Molina
Plaintiff

Dated: _____

Job Elliot Ascencio
Plaintiff

Dated: _____

German Aparicio
Plaintiff

Dated: 04/21/2026



Nicholas Ceballos (Apr 21, 2026 16:14:42 PDT)

Nicholas Ceballos
Plaintiff

DEFENDANTS

Date: _____

By: _____
Title:

Approved as to Form:

SNELL & WILMER L.L.P.

Date: _____

Brian Mills
Anne Dwyer
Counsel for Defendants

**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**

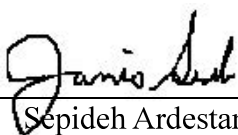
Date: 5/4/26



Kyle Nordrehaug
Counsel for Plaintiffs

CROSNER LEGAL, P.C.

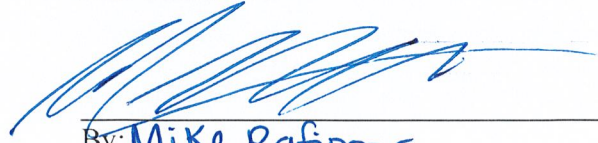
Date: April 28, 2026



Sepideh Ardestani
Jamie K. Serb
Zachary M. Crosner
Counsel for Plaintiffs

DEFENDANTS

Date: 5/11/26


By: Mike Rafipoor
Title: CEO

Approved as to Form:

Date: May 11, 2026

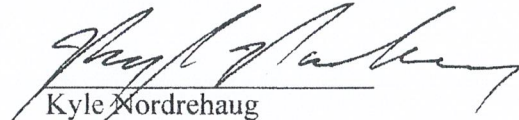
SNELL & WILMER L.L.P.



Brian Mills
Anne Dwyer
Counsel for Defendants

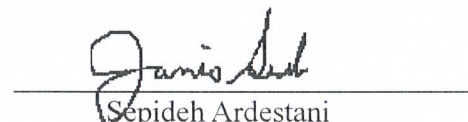
**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**

Date: 5/4/26


Kyle Nordrehaug
Counsel for Plaintiffs

CROSNER LEGAL, P.C.

Date: April 28, 2026


Sepideh Ardestani
Jamie K. Serb
Zachary M. Crosner
Counsel for Plaintiffs

WILSHIRE LAW FIRM

Date: 04/15/2026



Benjamin H. Haber
Daniel J. Kramer
Chase M. Stern
Counsel for Plaintiffs

AMENDMENT TO PAGA SETTLEMENT AGREEMENT

This Amendment to the Class Action and PAGA Settlement Agreement (“Amendment”) is made by and between Counsel for Plaintiffs Erika Lizeth Merino Alejandro, Nicholas Ceballos, Adriana Molina, Job Ascencio, and German Aparicio (“PAGA Counsel”) and Counsel for Defendants Santa Eastvale, Inc., PKG Catering, Inc., Santa Corona Del Mar Investments, Inc., Santa UTC, Inc., Santa Mission, Inc., Santa Century, Inc., Santa LBX, Inc., Santa Los Olivos, Inc., Santa Broadway, Inc., Santa Mix, Inc. Santa Florita Investments, Inc., Santa Cerritos, Inc., Santa Jamboree Investments, Inc., Santa Play Vista Panini Investments, Inc., Santa Miguel, Inc., Santa Victoria Investments, Inc., Santa Monica Panini Investments, Inc., Santa Brassy, Inc., San Pedro, Inc., Santa Crown, Inc. Sanana, Inc. MAH, Inc., Santa Culver, Inc., Santa Central, Inc., Santa Marina, Inc., Santa Paseo, Inc., Santa Van Nuys, Inc., Saint Real, Inc., Saint UTC, Inc., Santa Galleria, Inc., Farm Food, Inc., Santa Escondido, Inc., Santa Sunset, Inc., Santa Northridge, Inc., and Saint Park, Inc (“Defense Counsel”) in Plaintiffs’ PAGA lawsuit alleging wage and hour violations against Defendants, captioned *Erika Lizeth Merino Alejandro v. Santa Eastvale, Inc., et al.*, Case No. CIVSB2202254, pending in Superior Court of the State of California, County of San Bernardino (the “Action”).

This Amendment is made in accordance with Paragraph 10.8 (“Modification of Agreement”) of the PAGA Settlement Agreement, which states: “This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.”

PROVISIONS

1. Terms used in this Amendment are as defined in the PAGA Settlement Agreement (“Agreement”).
2. PAGA Counsel and Defense Counsel have met and conferred and stipulate to the following modifications to the Agreement:
 - a. **Paragraph 3.2.2 shall be revised to state the following:** “A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount which is currently estimated to be \$311,250.00 and PAGA Counsel Litigation Expenses Payment of not more than \$70,000.00. Defendants will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Defendants also agree not to oppose a split of the PAGA Counsel Fees Payment as follows: WLF’s share will be 40% of the total attorneys’ fees awarded, BNBD’s share will be 30% of the total attorneys’ fees awarded, and CL’s share will be 30% of the total attorneys’ fees awarded. Plaintiffs and/or PAGA Counsel will file an application or motion requesting the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiffs’ Counsel arising from any claim to any portion any PAGA

Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.”

IN WITNESS WHEREOF, PAGA Counsel and Defense Counsel hereto have caused this Amendment to be executed.

Dated: 8/24/2026

CROSNER LEGAL, P.C.



Zachary Crosner, Esq.
Jamie Serb, Esq.
Matthew Crawford, Esq.

Counsel for Plaintiffs

Dated: 8/24/26

**BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP**


Kyle Nordrehaug

Counsel for Plaintiffs

Dated: 8/24/2026

WILSHIRE LAW FIRM



Benjamin H. Haber, Esq.
Chase M. Stern, Esq.

Counsel for Plaintiffs

Dated: 8/26/2026

SNELL & WILMER L.L.P.

A handwritten signature in dark ink, appearing to read 'Brian Mills', with a long horizontal flourish extending to the right.

Brian Mills, Esq.
Anne Dwyer, Esq.

Counsel for Defendants

Exhibit 2



Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (323) 205-7495
office: (310) 496-5818
fax: (310) 510-6429

August 19, 2022

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

Mike Rafipoor,
Agent for Service of Process for:
Santa LBX, Inc.
3159 A Red Hill Avenue
Costa Mesa, CA 92626

Santa LBX, Inc.
Attn: Legal Department
3159 A Red Hill Avenue
Costa Mesa, CA 92626

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Santa LBX, Inc.
Date: August 19, 2022
Subject: *Adriana Molina v. Santa LBX, Inc. dba Panini Kabob Grill*

Introduction

This office represents COMPLAINANT, Adriana Molina (hereinafter "COMPLAINANT") in connection with COMPLAINANT's claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Santa LBX, Inc., (hereinafter, this entity and its managing agents are collectively referred to as "EMPLOYER"). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by

EMPLOYER in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State and/or the entity listed on wage statements issued by EMPLOYER.

This NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT’s claims, COMPLAINANT requests that the LWDA regard this NOTICE as written notice of COMPLAINANT’s intent to seek civil penalties against EMPLOYER.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5,

351, 353, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California’s labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/Abc, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT’s and other NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ rights by violating various sections of the California Labor Code. The California Legislature defines “other person acting on behalf of an employer” as “a natural person who is an owner, director, officer, or managing agent of the employer.” The “managing

agent” definition mirrors that found in California’s punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, “managing agents” are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER owns, operates or otherwise manages various restaurant locations, including but not limited to restaurants operating under the Panini Kabob Grill name in California. At all times mentioned herein, EMPLOYER conducted and continues to conduct business in the State of California. At all times mentioned herein, EMPLOYER was and is an employer covered by the Labor Code and the applicable California Industrial Welfare Commission (“IWC”) Wage Order. Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California’s labor laws.

COMPLAINANT is currently employed by EMPLOYER as a non-exempt employee. COMPLAINANT works for EMPLOYER as a food server and/or similar title at EMPLOYER’s Panini Kabob Grill restaurant. COMPLAINANT has worked at EMPLOYER’s Panini Kabob Grill restaurant located in Playa Vista, CA, and currently works at EMPLOYER’s Panini Kabob Grill restaurant located in Long Beach, CA. COMPLAINANT has worked for EMPLOYER from in or around early 2013 through present. COMPLAINANT regularly works at least 6-7 hours per day, at least 4 to 5 days per week. EMPLOYER pays COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER's time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER's failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES' work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER's failure to keep "accurate and complete" payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.¹

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226, and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, COMPLAINANT sent a request for payroll and personnel records to EMPLOYER on March 14, 2022, and again on April 18, 2022. Yet, EMPLOYER failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete payroll and personnel records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT's employment by EMPLOYER.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided”).

Employers must pay employees an additional hour of wages at the employees’ regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) (“If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided”); *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling them to at least one meal period.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, at least twice a week, COMPLAINANT experienced an interrupted, late or shortened meal period. At times, COMPLAINANT was required to clock out for a purported meal period but was required to continue working while off-the-clock. On such days, COMPLAINANT took a meal period at a later time when the restaurant was not as busy. Based on information and belief, COMPLAINANT was not paid meal premiums for unlawful meal periods.

At times, COMPLAINANT was scheduled to work shifts that lasted six hours. On some of those shifts, COMPLAINANT’s actual work time was longer than six hours. On such occasions, EMPLOYER would manipulate COMPLAINANT’s time records such that COMPLAINANT’s total hours worked were six hours or less and would deny COMPLAINANT the opportunity to take a meal period.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER’s premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER’s goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal periods.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER's control owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per EMPLOYER's uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful, timely meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.² EMPLOYER's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s)). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

EMPLOYER did not properly authorize and provide COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods. For example, COMPLAINANT was rarely afforded the opportunity to take a lawful rest period or any rest period at all. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were not advised of EMPLOYER's policy with regard to rest periods. Moreover, as a result of EMPLOYER's failure to implement a lawful rest period policy, understaffing, and busy nature of COMPLAINANT's work duties, COMPLAINANT was regularly denied the opportunity to take timely, duty-free rest periods.

Moreover, based on information and belief, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period

premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” 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.” *See* §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...” *Cal. Lab. Code* § 1194.2.

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER’s automatic deduction and time

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER's control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER's policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, at times, EMPLOYER manipulated COMPLAINANT's time records in order to reduce the total number of recorded hours. At times, COMPLAINANT was scheduled to work shifts that lasted six hours. On some of those shifts, COMPLAINANT's actual work time was longer than six hours. On such occasions, EMPLOYER would manipulate COMPLAINANT's time records such that COMPLAINANT's total hours worked were six hours or less and would deny COMPLAINANT the opportunity to take a meal period, thereby resulting in unpaid hours (as well meal period violations).

EMPLOYER also failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent performing job duties before clocking in to work and/or after clocking for work. For example, based on information and belief, the manager in charge of opening the restaurant was required to enable the alarm and/or unlock the restaurant prior to clocking in to work. Similarly, upon closing the restaurant, the manager or manager on duty was required to enable the alarm and lock the restaurant after clocking out for a shift.

Moreover, EMPLOYER required pre-shift off-the-clock temperature checks/screenings. EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to undergo pre-shift temperature screenings and fill out a form confirming that the NON-EXEMPT AGGRIEVED EMPLOYEE was not experiencing any symptoms related to COVID 19. The form required the NON-EXEMPT AGGRIEVED EMPLOYEES' name, date, position and a response to approximately five questions. This process resulted in at least three to seven minutes of off-the-clock work depending in part, on the number of employees that were clocking in.

At times, EMPLOYER's time-keeping system malfunctioned, and COMPLAINANT was required to wait a few minutes for the system to work and/or for her manager to assist with the clock-in procedure, resulting in a few minutes of unpaid time.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires,

and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by EMPLOYER would almost always, if not always, result in understating actual compensable work time. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular

⁴ See Lab. Code §1197.1(a) (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

As described above, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods, and/or other off-the-clock work (including pre-shift and post shift off-the-clock work) resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

⁵ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, §20 (establishing that "in addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to EMPLOYER's premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and all NON-EXEMPT

AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, EMPLOYER failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁶

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) 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; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

EMPLOYER's failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them.

⁶ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER's failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁷

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by, including but not limited to, failing to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

⁷ See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

EMPLOYER's restaurants/locations are generally similar in layout and design, and there was, and continues to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. EMPLOYER could have provided COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within the restaurant with reasonable or no modification. Based on information and belief, EMPLOYER denied and continues to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were forced to adjust to areas not conducive to resting, or search for facilities outside of the restaurant.

EMPLOYER did not provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods. Moreover, EMPLOYER did not inform COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of their rights to suitable resting facilities under California law.

EMPLOYER's failure to provide suitable resting facilities to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, suitable resting facilities, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to

recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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." Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.⁸

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. See Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, "for purposes of [section 2802], the term

⁸ (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee").

‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when 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 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. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” *See* Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, uniforms and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. For example, COMPLAINANT regularly receives work-related calls to her personal cell phone. At least once or twice per pay period, COMPLAINANT receives a work-related call regarding a work schedule change and/or the need to cover another employee’s shift. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES are required to purchase and maintain work uniforms including but not limited to a white polo shirt with EMPLOYER’s logo, and a black apron which EMPLOYER requires them to wear during work hours. EMPLOYER only provides one apron to each NON-EXEMPT AGGRIEVED EMPLOYEE. Due to regular use, and wear and tear, NON-EXEMPT AGGRIEVED EMPLOYEES are required to supply additional aprons. For example, COMPLAINANT purchases additional black aprons to wear at work.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not fully reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Violation of Labor Code section 351 and 353: Labor Code Section 351 prohibits employers and their agents from sharing in or keeping any portion of a gratuity left for or given to one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions from gratuities, or from using gratuities as direct or indirect credits against an employee's wages. Labor Code Section 353 mandates employers to keep accurate records of all gratuities received.

Based on information and belief, EMPLOYER failed to ensure that NON-EXEMPT AGGRIEVED EMPLOYEES fully received the gratuities left for them by patrons, in that EMPLOYER and its agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor Code Section 351. Based on further information and belief, EMPLOYER also failed/fails to keep accurate records of all tips received, in violation of Labor Code Section 353. Based on information and belief, EMPLOYER failed to pay gratuities paid by customers using credit cards to NON-EXEMPT AGGRIEVED EMPLOYEES by the next regular payday following the credit card payment, in violation of Labor Code section 351.

Pursuant to PAGA, EMPLOYER is liable for penalties of \$100 per pay period payable to each NON-EXEMPT AGGRIEVED EMPLOYEE for the first violation of Labor Code Sections 351 and 353 they experienced within the statutory period, and \$200 per pay period for each additional violation.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such

employer...to be prohibited by law.” Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers’ ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act ("FEHA"), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, EMPLOYER violated California's Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

EMPLOYER has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 310.496.5818
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,



Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Ashley Gutierrez <agutierrez@crosnerlegal.com>

Thank you for submission of your PAGA Case.

1 message

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "zach@crosnerlegal.com" <zach@crosnerlegal.com>

Fri, Aug 19, 2022 at 3:50 PM

8/19/2022

LWDA Case No. LWDA-CM-902947-22
Law Firm : Crosner Legal PC
Plaintiff Name : Adriana Molina
Employer: Santa LBX, Inc. dba Panini Kabob Grill
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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



Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (310) 496-5818
fax: (310) 510-6429

November 17, 2022

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

Mike Rafipoor,
Agent for Service of Process for:
Santa LBX, Inc.
3159 A Red Hill Avenue
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Broadway, Inc.
3159 A Red Hill Avenue
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Mix, Inc.,
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Corona Del Mar Investments
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Santa LBX, Inc.
Attn: Legal Department
3159 A Red Hill Avenue
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Florita Investments, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Jamboree Investments, Inc
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Cerritos, Inc
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Century, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Miguel, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Playa Vista Panini Investments, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Victoria Investments, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Monica Panini Investments, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Los Olivos, Inc
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Brassy, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Eastvale, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Utc, Inc.,
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Mission, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

AMENDED NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Santa LBX, Inc.; Santa Broadway, Inc.; Santa Mix, Inc.; Santa Corona Del Mar Investments; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Century, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; Santa Los Olivos Inc; Santa Brassy, Inc.; Santa Eastvale, Inc.; Santa Utc, Inc.; and Santa Mission, Inc.,

Date: November 17, 2022

Subject: *Adriana Molina v. Santa LBX, Inc. dba Panini Kabob Grill, et. al.*
LWDA-CM-902947-22

Introduction

This office represents COMPLAINANT, Adriana Molina (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Santa LBX, Inc., Santa Broadway, Inc.; Santa Mix, Inc.; Santa Corona Del Mar Investments; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Century, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; Santa Los Olivos Inc; Santa Brassy, Inc.; Santa Eastvale, Inc.; Santa Utc, Inc.; and Santa Mission, Inc., (hereinafter, these entities and their managing agents are collectively referred to as “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by EMPLOYER in California within one year of the date of COMPLAINANT’s original notice filed on August 19, 2022 (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER in California within one year of the date of COMPLAINANT’s original notice filed on August 19, 2022, (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives this written amended notice (“AMENDED NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This AMENDED NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State and/or the entity listed on wage statements issued by EMPLOYER. The purpose of this AMENDED NOTICE is to add additional entities identified above as COMPLAINANT’s EMPLOYER.

This AMENDED NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this AMENDED NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This AMENDED NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This AMENDED NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of COMPLAINANT’s original notice filed on August 19, 2022. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to

amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT's claims, COMPLAINANT requests that the LWDA regard this AMENDED NOTICE as written notice of COMPLAINANT's intent to seek civil penalties against EMPLOYER.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 351, 353, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/Abc, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under

PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER owns, operates or otherwise manages various restaurant locations, including but not limited to restaurants operating under the Panini Kabob Grill name in California. At all times mentioned herein, EMPLOYER conducted and continues to conduct business in the State of California. At all times mentioned herein, EMPLOYER was and is an employer covered by the Labor Code and the applicable California Industrial Welfare Commission ("IWC") Wage Order. Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT is currently employed by EMPLOYER as a non-exempt employee. COMPLAINANT works for EMPLOYER as a food server and/or similar title at EMPLOYER's Panini Kabob Grill restaurant. COMPLAINANT has worked at EMPLOYER's Panini Kabob Grill restaurant located in Playa Vista, CA, and currently works at EMPLOYER's Panini Kabob Grill restaurant located in Long Beach, CA. COMPLAINANT has worked for EMPLOYER from in or around early 2013 through present. COMPLAINANT regularly works at least 6-7 hours per day, at least 4 to 5 days per week. EMPLOYER pays COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER’s time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER’s failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER’s control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT’s and NON-EXEMPT AGGRIEVED EMPLOYEES’ meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES’ work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER’s failure to keep “accurate and complete” payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.¹

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”).

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226, and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, COMPLAINANT sent a request for payroll and personnel records to EMPLOYER on March 14, 2022, and again on April 18, 2022. Yet, EMPLOYER failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete payroll and personnel records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-

EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT's employment by EMPLOYER.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), *and* (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling them to at least one meal period.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-

compliant meal breaks or skip meal breaks completely. For example, at least twice a week, COMPLAINANT experienced an interrupted, late or shortened meal period. At times, COMPLAINANT was required to clock out for a purported meal period but was required to continue working while off-the-clock. On such days, COMPLAINANT took a meal period at a later time when the restaurant was not as busy. Based on information and belief, COMPLAINANT was not paid meal premiums for unlawful meal periods.

At times, COMPLAINANT was scheduled to work shifts that lasted six hours. On some of those shifts, COMPLAINANT's actual work time was longer than six hours. On such occasions, EMPLOYER would manipulate COMPLAINANT's time records such that COMPLAINANT's total hours worked were six hours or less and would deny COMPLAINANT the opportunity to take a meal period.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER's goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal periods.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER's control owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per EMPLOYER's uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful, timely meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.² EMPLOYER's failure to provide valid meal periods,

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp.*, v. *Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

EMPLOYER did not properly authorize and provide COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods. For example, COMPLAINANT was rarely afforded the opportunity to take a lawful rest period or any rest period at all. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were not advised of EMPLOYER's policy with regard to rest periods. Moreover, as a result of EMPLOYER's failure to implement a lawful rest period policy, understaffing, and busy nature of COMPLAINANT's work duties, COMPLAINANT was regularly denied the opportunity to take timely, duty-free rest periods.

Moreover, based on information and belief, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” 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.” See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...” *Cal. Lab. Code* § 1194.2.

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER’s automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER’s control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER’s policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, at times, EMPLOYER manipulated COMPLAINANT’s time records in order to reduce the total number of recorded hours. At times, COMPLAINANT was scheduled to work shifts that lasted six hours. On some of those shifts, COMPLAINANT’s actual work time was longer than six hours. On such occasions, EMPLOYER would manipulate COMPLAINANT’s time records such that COMPLAINANT’s total hours worked were six hours or less and would deny COMPLAINANT the opportunity to take a meal period, thereby resulting in unpaid hours (as well meal period violations).

EMPLOYER also failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent performing job duties before clocking in to work and/or after clocking for work. For example, based on information and belief, the manager in charge of opening the restaurant was required to enable the alarm and/or unlock the restaurant prior to clocking in to work. Similarly,

upon closing the restaurant, the manager or manager on duty was required to enable the alarm and lock the restaurant after clocking out for a shift.

Moreover, EMPLOYER required pre-shift off-the-clock temperature checks/screenings. EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to undergo pre-shift temperature screenings and fill out a form confirming that the NON-EXEMPT AGGRIEVED EMPLOYEE was not experiencing any symptoms related to COVID 19. The form required the NON-EXEMPT AGGRIEVED EMPLOYEES' name, date, position and a response to approximately five questions. This process resulted in at least three to seven minutes of off-the-clock work depending in part, on the number of employees that were clocking in.

At times, EMPLOYER's time-keeping system malfunctioned, and COMPLAINANT was required to wait a few minutes for the system to work and/or for her manager to assist with the clock-in procedure, resulting in a few minutes of unpaid time.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by EMPLOYER would almost always, if not always, result in understating actual compensable work time. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

As described above, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods, and/or other off-the-clock work (including pre-shift and post shift off-the-clock work) resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or other non-

⁴ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to EMPLOYER's premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But

⁵ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); Lab. Code §558 (establishing that the civil penalty is “for each underpaid employee for each pay period for which the employee was underpaid”); All applicable Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

for this failure, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on

information and belief, EMPLOYER failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁶

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) 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; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during

⁶ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

the pay period, the correct applicable rates of pay for all hours worked, and the “total hours worked” by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

EMPLOYER’s failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER’s failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁷

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by,

⁷ See Lab. Code §226.3 (establishing that the civil penalty is “per employee per violation”).

including but not limited to, failing to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

EMPLOYER's restaurants/locations are generally similar in layout and design, and there was, and continues to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. EMPLOYER could have provided COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within the restaurant with reasonable or no modification. Based on information and belief, EMPLOYER denied and continues to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were forced to adjust to areas not conducive to resting, or search for facilities outside of the restaurant.

EMPLOYER did not provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods. Moreover, EMPLOYER did not inform COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of their rights to suitable resting facilities under California law.

EMPLOYER's failure to provide suitable resting facilities to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, suitable resting facilities, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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." Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.⁸

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when 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 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. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” *See* Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, uniforms and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. For example, COMPLAINANT regularly receives work-related calls to her personal cell phone. At least once or twice per pay period, COMPLAINANT receives a work-related call regarding a work schedule change and/or the need to cover another employee’s shift. Moreover, NON-EXEMPT

⁸ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

AGGRIEVED EMPLOYEES are required to purchase and maintain work uniforms including but not limited to a white polo shirt with EMPLOYER's logo, and a black apron which EMPLOYER requires them to wear during work hours. EMPLOYER only provides one apron to each NON-EXEMPT AGGRIEVED EMPLOYEE. Due to regular use, and wear and tear, NON-EXEMPT AGGRIEVED EMPLOYEES are required to supply additional aprons. For example, COMPLAINANT purchases additional black aprons to wear at work.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not fully reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Violation of Labor Code section 351 and 353: Labor Code Section 351 prohibits employers and their agents from sharing in or keeping any portion of a gratuity left for or given to one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions from gratuities, or from using gratuities as direct or indirect credits against an employee's wages. Labor Code Section 353 mandates employers to keep accurate records of all gratuities received.

Based on information and belief, EMPLOYER failed to ensure that NON-EXEMPT AGGRIEVED EMPLOYEES fully received the gratuities left for them by patrons, in that EMPLOYER and its agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor Code Section 351. Based on further information and belief, EMPLOYER also failed/fails to keep accurate records of all tips received, in violation of Labor Code Section 353. Based on information and belief, EMPLOYER failed to pay gratuities paid by customers using

credit cards to NON-EXEMPT AGGRIEVED EMPLOYEES by the next regular payday following the credit card payment, in violation of Labor Code section 351.

Pursuant to PAGA, EMPLOYER is liable for penalties of \$100 per pay period payable to each NON-EXEMPT AGGRIEVED EMPLOYEE for the first violation of Labor Code Sections 351 and 353 they experienced within the statutory period, and \$200 per pay period for each additional violation.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that “no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law.” Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers’ ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.*, and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment

offer, EMPLOYER violated California's Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

EMPLOYER has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this AMENDED NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this AMENDED NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this AMENDED NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 310.496.5818
Fax: 310.510.6429

Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, reading "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Alberto Villavicencio <alberto@crosnerlegal.com>

Thank you for your Amended PAGA Claim Notice Submission.

1 message

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
To: alberto@crosnerlegal.com

Thu, Nov 17, 2022 at 12:02 PM

11/17/2022 12:01:17 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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



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December 29, 2022

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

Mike Rafipoor,
Agent for Service of Process for:
Santa LBX, Inc.
3159 A Red Hill Avenue
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Broadway, Inc.
3159 A Red Hill Avenue
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Mix, Inc.,
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Corona Del Mar Investments
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Santa LBX, Inc.
Attn: Legal Department
3159 A Red Hill Avenue
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Florita Investments, Inc.
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Costa Mesa, CA 92626

Mike Rafipoor,
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Santa Jamboree Investments, Inc
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Mike Rafipoor,
Agent for Service of Process for:
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Mike Rafipoor,
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Mike Rafipoor,
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Mike Rafipoor,
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Mike Rafipoor,
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Santa Victoria Investments, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
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Santa Monica Panini Investments, Inc.
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Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Los Olivos, Inc
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Mike Rafipoor,
Agent for Service of Process for:
Santa Brassy, Inc.
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Mike Rafipoor,
Agent for Service of Process for:
Santa Eastvale, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Utc, Inc.,
3159 A Red Hill Ave.
Costa Mesa, CA 92626

Mike Rafipoor,
Agent for Service of Process for:
Santa Mission, Inc.
3159 A Red Hill Ave.
Costa Mesa, CA 92626

SECOND AMENDED NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency; Santa LBX, Inc.; Santa Broadway, Inc.; Santa Mix, Inc.; Santa Corona Del Mar Investments; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Century, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; Santa Los Olivos Inc; Santa Brassy, Inc.; Santa Eastvale, Inc.; Santa Utc, Inc.; and Santa Mission, Inc.,

Date: December 29, 2022

Subject: *Adriana Molina v. Santa LBX, Inc. dba Panini Kabob Grill, et. al.*
LWDA-CM-902947-22

Introduction

This office represents COMPLAINANT, Adriana Molina (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entities and individual managing agents of said entities: Santa LBX, Inc., Santa Broadway, Inc.; Santa Mix, Inc.; Santa Corona Del Mar Investments; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Century, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; Santa Los Olivos Inc; Santa Brassy, Inc.; Santa Eastvale, Inc.; Santa Utc, Inc.; and Santa Mission, Inc., (hereinafter, these entities and their managing agents are collectively referred to as “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by EMPLOYER in California within one year of the date of COMPLAINANT’s original notice filed on August 19, 2022 (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER in California within one year of the date of COMPLAINANT’s original notice filed on August 19, 2022, (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives this written second amended notice (“SECOND AMENDED NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This SECOND AMENDED NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State and/or the entity listed on wage statements issued by EMPLOYER. The purpose of this SECOND AMENDED NOTICE is to provide notice of EMPLOYER’s additional violations of Labor Code section 432.5 as explained below.

This SECOND AMENDED NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this SECOND AMENDED NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This SECOND AMENDED NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This SECOND AMENDED NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of COMPLAINANT’s original notice filed on August 19, 2022.

Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT's claims, COMPLAINANT requests that the LWDA regard this SECOND AMENDED NOTICE as written notice of COMPLAINANT's intent to seek civil penalties against EMPLOYER.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 351, 353, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person* who is an owner, director, officer, or managing agent of the employer." The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER owns, operates or otherwise manages various restaurant locations, including but not limited to restaurants operating under the Panini Kabob Grill name in California. At all times mentioned herein, EMPLOYER conducted and continues to conduct business in the State of California. At all times mentioned herein, EMPLOYER was and is an employer covered by the Labor Code and the applicable California Industrial Welfare Commission ("IWC") Wage Order.

Although EMPLOYER may operate successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT is currently employed by EMPLOYER as a non-exempt employee. COMPLAINANT works for EMPLOYER as a food server and/or similar title at EMPLOYER's Panini Kabob Grill restaurant. COMPLAINANT has worked at EMPLOYER's Panini Kabob Grill restaurant located in Playa Vista, CA, and currently works at EMPLOYER's Panini Kabob Grill restaurant located in Long Beach, CA. COMPLAINANT has worked for EMPLOYER from in or around early 2013 through present. COMPLAINANT regularly works at least 6-7 hours per day, at least 4 to 5 days per week. EMPLOYER pays COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment

applications and sign off on same as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER’s time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER’s failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER’s control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT’s and NON-EXEMPT AGGRIEVED EMPLOYEES’ meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES’ work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER’s failure to keep “accurate and complete” payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor

Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.¹

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226, and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee's personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, COMPLAINANT sent a request for payroll and personnel records to EMPLOYER on March 14, 2022, and again on April 18, 2022. Yet, EMPLOYER failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete payroll and personnel records

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee's total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT's employment by EMPLOYER.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) ("Meal periods . . . shall also be recorded"); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) ("If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided").

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling them to at least one meal period.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, at least twice a week, COMPLAINANT experienced an interrupted, late or shortened meal period. At times, COMPLAINANT was required to clock out for a purported meal period but was required to continue working while off-the-clock. On such days, COMPLAINANT took a meal period at a later time when the restaurant was not as busy. Based on information and belief, COMPLAINANT was not paid meal premiums for unlawful meal periods.

At times, COMPLAINANT was scheduled to work shifts that lasted six hours. On some of those shifts, COMPLAINANT's actual work time was longer than six hours. On such occasions, EMPLOYER would manipulate COMPLAINANT's time records such that COMPLAINANT's total hours worked were six hours or less and would deny COMPLAINANT the opportunity to take a meal period.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER's goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal periods.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER's control owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per EMPLOYER's uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful, timely meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-

EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.² EMPLOYER's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

EMPLOYER did not properly authorize and provide COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods. For example, COMPLAINANT was rarely afforded the opportunity to take a lawful rest period or any rest period at all. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were not advised of EMPLOYER's policy with regard to rest periods. Moreover, as a result of EMPLOYER's failure to implement a lawful rest period policy, understaffing, and busy nature of COMPLAINANT's work duties, COMPLAINANT was regularly denied the opportunity to take timely, duty-free rest periods.

Moreover, based on information and belief, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” 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.” See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, “in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon...” *Cal. Lab. Code* § 1194.2.

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER’s automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER’s control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER’s policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, at times, EMPLOYER manipulated COMPLAINANT’s time records in order to reduce the total number of recorded hours. At times, COMPLAINANT was scheduled to work shifts that lasted six hours. On some of those shifts, COMPLAINANT’s actual work time

was longer than six hours. On such occasions, EMPLOYER would manipulate COMPLAINANT's time records such that COMPLAINANT's total hours worked were six hours or less and would deny COMPLAINANT the opportunity to take a meal period, thereby resulting in unpaid hours (as well meal period violations).

EMPLOYER also failed to compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent performing job duties before clocking in to work and/or after clocking for work. For example, based on information and belief, the manager in charge of opening the restaurant was required to enable the alarm and/or unlock the restaurant prior to clocking in to work. Similarly, upon closing the restaurant, the manager or manager on duty was required to enable the alarm and lock the restaurant after clocking out for a shift.

Moreover, EMPLOYER required pre-shift off-the-clock temperature checks/screenings. EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to undergo pre-shift temperature screenings and fill out a form confirming that the NON-EXEMPT AGGRIEVED EMPLOYEE was not experiencing any symptoms related to COVID 19. The form required the NON-EXEMPT AGGRIEVED EMPLOYEES' name, date, position and a response to approximately five questions. This process resulted in at least three to seven minutes of off-the-clock work depending in part, on the number of employees that were clocking in.

At times, EMPLOYER's time-keeping system malfunctioned, and COMPLAINANT was required to wait a few minutes for the system to work and/or for her manager to assist with the clock-in procedure, resulting in a few minutes of unpaid time.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by EMPLOYER would almost always, if not always, result in understating actual compensable work time. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid

overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

As described above, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods, and/or other off-the-clock work (including pre-shift and post shift off-the-clock work) resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

⁴ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Based on information and belief, EMPLOYER failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to EMPLOYER's premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

⁵ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, §20 (establishing that "in addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as

permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, EMPLOYER failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁶

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) 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; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage

⁶ Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

EMPLOYER's failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT AGGRIEVED EMPLOYEES over whether they received all wages owed to them. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER's failure to provide accurate wage statements.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁷

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by, including but not limited to, failing to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Failure to Provide Suitable Resting Facilities: Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

EMPLOYER's restaurants/locations are generally similar in layout and design, and there was, and continues to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. EMPLOYER could have provided COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within the restaurant with reasonable or no modification. Based on information and belief, EMPLOYER denied and continues to deny, employees with suitable areas to rest (e.g. a breakroom). As a result, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were forced to adjust to areas not conducive to resting, or search for facilities outside of the restaurant.

EMPLOYER did not provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods. Moreover, EMPLOYER did not inform COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of their rights to suitable resting facilities under California law.

EMPLOYER's failure to provide suitable resting facilities to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violated and continue to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage

⁷ See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, suitable resting facilities, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 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." Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.⁸

Business Expense Violations: California law requires employers to indemnify their employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of their duties or of their obedience to the directions of the employer. *See* Cal. Lab. Code § 2802(a) and all applicable Wage Orders, § 9 (b). Furthermore, “for purposes of [section 2802], the term ‘necessary expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees incurred by the employee enforcing the rights granted by this section.”

Among other things, under California law, when 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 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. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan’s Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. Further, “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” *See* Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

⁸ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, uniforms and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. For example, COMPLAINANT regularly receives work-related calls to her personal cell phone. At least once or twice per pay period, COMPLAINANT receives a work-related call regarding a work schedule change and/or the need to cover another employee's shift. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES are required to purchase and maintain work uniforms including but not limited to a white polo shirt with EMPLOYER's logo, and a black apron which EMPLOYER requires them to wear during work hours. EMPLOYER only provides one apron to each NON-EXEMPT AGGRIEVED EMPLOYEE. Due to regular use, and wear and tear, NON-EXEMPT AGGRIEVED EMPLOYEES are required to supply additional aprons. For example, COMPLAINANT purchases additional black aprons to wear at work.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not fully reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Violation of Labor Code section 351 and 353: Labor Code Section 351 prohibits employers and their agents from sharing in or keeping any portion of a gratuity left for or given to one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions from

gratuities, or from using gratuities as direct or indirect credits against an employee's wages. Labor Code Section 353 mandates employers to keep accurate records of all gratuities received.

Based on information and belief, EMPLOYER failed to ensure that NON-EXEMPT AGGRIEVED EMPLOYEES fully received the gratuities left for them by patrons, in that EMPLOYER and its agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor Code Section 351. Based on further information and belief, EMPLOYER also failed/fails to keep accurate records of all tips received, in violation of Labor Code Section 353. Based on information and belief, EMPLOYER failed to pay gratuities paid by customers using credit cards to NON-EXEMPT AGGRIEVED EMPLOYEES by the next regular payday following the credit card payment, in violation of Labor Code section 351.

Pursuant to PAGA, EMPLOYER is liable for penalties of \$100 per pay period payable to each NON-EXEMPT AGGRIEVED EMPLOYEE for the first violation of Labor Code Sections 351 and 353 they experienced within the statutory period, and \$200 per pay period for each additional violation.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that “no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law.” Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers’ ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit

checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, EMPLOYER violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Unlawful PAGA Waiver

Additionally, EMPLOYER violated Labor Code section 432.5 by requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment. For example, based on information and belief, EMPLOYER required COMPLAINANT to sign an arbitration agreement in writing that stated the following, “By signing this agreement, I am agreeing to waive any substantive or procedural rights that I may have to bring an action on a ... private attorney general, representative or other similar basis.” Such language is unlawful as it requires NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to waive their right to initiate a representative and/or PAGA action, and such a waiver is in violation of California law.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, EMPLOYER required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

EMPLOYER has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs. The civil penalties COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this SECOND AMENDED NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this SECOND AMENDED NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

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Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this SECOND AMENDED NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 310.496.5818
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, reading "Kiara Bramasco". The signature is written in a cursive, flowing style.

Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Manny Martinez <manny@crosnerlegal.com>

Thank you for your Amended PAGA Claim Notice Submission.

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
To: zach@crosnerlegal.com

Thu, Dec 29, 2022 at 4:21 PM

12/29/2022 04:21:24 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 3

**WILSHIRE LAW FIRM,
PLC**

660 S. Figueroa St., Sky Lobby
Los Angeles, CA 90017
Tel: (213) 381-9988
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wilshirelawfirm.com



Sean Paisan, Esq.
John Yslas, Esq.
John Lucas, Esq.
Tyler Woods, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Benjamin Haber, Esq.
Arrash Fattahi, Esq.

July 14, 2026

LWDA
California Labor & Workforce Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

(Via Online Submission)

Santa Eastvale, Inc. dba Panini Kabob Grill; Santa LBX, Inc.; PKG Catering, Inc.; Santa Corona Del Mar Investments; Santa UTC, Inc.; Santa Mission, Inc.; Santa Century, Inc.; Santa Los Olivos, Inc.; Santa Broadway, Inc.; Santa Mix, Inc.; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; and Santa Brassy, Inc.; Santa Pedro Inc.; Santa Crown, Inc.; Sanana, Inc.; MAH, Inc.; Santa Culver, Inc.; Santa Central, Inc.; Santa Marina, Inc.; Santa Paseo, Inc.; Santa Escondido, Inc.; Santa Real, Inc.; Santa Northridge, Inc.; and Saint Park, Inc.

3159 A Red Hill Ave.
Costa Mesa, CA 92626

(Via Certified Mail, Return Receipt Requested)

Mike Rafipoor

Agent for Service of Process for: Santa Eastvale, Inc. dba Panini Kabob Grill; Santa LBX, Inc.; PKG Catering, Inc.; Santa Corona Del Mar Investments; Santa UTC, Inc.; Santa Mission, Inc.; Santa Century, Inc.; Santa Los Olivos, Inc.; Santa Broadway, Inc.; Santa Mix, Inc.; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; Santa Brassy, Inc.; Santa Pedro Inc.; Santa Crown, Inc.; Sanana, Inc.; MAH, Inc.; Santa Culver, Inc.; Santa Central, Inc.; Santa Marina, Inc.; Santa Paseo, Inc.; Santa Escondido, Inc.; Santa Real, Inc.; Santa Northridge, Inc.; and Saint Park, Inc.

3159 A Red Hill Ave.
Costa Mesa, CA 92626

(Via Certified Mail, Return Receipt Requested)

Re: ***Erika Lizeth Merino Alejandro, Adriana Molina, Nicholas Ceballos, Job Ascencio, and German Aparicio v. Santa Eastvale, Inc. dba Panini Kabob Grill; Santa LBX, Inc.; PKG Catering, Inc.; Santa Corona Del Mar Investments; Santa UTC, Inc.; Santa Mission, Inc.; Santa Century, Inc.; Santa Los Olivos, Inc.; Santa Broadway,***

Inc.; Santa Mix, Inc.; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; Santa Brassy, Inc.; Santa Pedro Inc.; Santa Crown, Inc.; Sanana, Inc.; MAH, Inc.; Santa Culver, Inc.; Santa Central, Inc.; Santa Marina, Inc.; Santa Paseo, Inc.; Santa Escondido, Inc.; Santa Real, Inc.; Santa Northridge, Inc.; and Saint Park, Inc. et al.
Second Amended Notice of Labor Code Violations and PAGA Penalties
LWDA Case No.: LWDA-CM-854152-21

To Whom It May Concern:

Please be advised that our offices have been retained by Erika Lizeth Merino Alejandro ("PLAINTIFF ALEJANDRO"), Adriana Molina ("PLAINTIFF MOLINA"), Nicholas Ceballos ("PLAINTIFF CEBALLOS"), Job Ascencio ("PLAINTIFF ASCENCIO"), and German Aparicio ("PLAINTIFF APARICIO") (collectively, "PLAINTIFFS") to pursue a Labor Code Private Attorneys General Act ("PAGA") representative action (Cal. Lab. Code §§ 2699, et seq.) against their former employers, Santa Eastvale, Inc. dba Panini Kabob Grill; Santa LBX, Inc.; PKG Catering, Inc.; Santa Corona Del Mar Investments; Santa UTC, Inc.; Santa Mission, Inc.; Santa Century, Inc.; Santa Los Olivos, Inc.; Santa Broadway, Inc.; Santa Mix, Inc.; Santa Florita Investments, Inc.; Santa Jamboree Investments, Inc.; Santa Cerritos, Inc.; Santa Playa Vista Panini Investments, Inc.; Santa Miguel, Inc.; Santa Victoria Investments, Inc.; Santa Monica Panini Investments, Inc.; Santa Brassy, Inc.; Santa Pedro Inc.; Santa Crown, Inc.; Sanana, Inc.; MAH, Inc.; Santa Culver, Inc.; Santa Central, Inc.; Santa Marina, Inc.; Santa Paseo, Inc.; Santa Escondido, Inc.; Santa Real, Inc.; Santa Northridge, Inc.; and Saint Park, Inc.; and related entities (collectively, "DEFENDANTS"). The purpose of this letter ("SECOND AMENDED NOTICE") is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege DEFENDANTS engaged in with respect to PLAINTIFFS and all other persons who worked for DEFENDANTS in California as non-exempt or hourly-paid employees at any time within the applicable statutory period ("Aggrieved Employees").

PLAINTIFFS wish to pursue this action on behalf of themselves as aggrieved employees, on behalf of the State of California, as well as on behalf of the Aggrieved Employees.

This SECOND AMENDED NOTICE further reserves any and all rights by PLAINTIFFS to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code — making them liable on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1 — PLAINTIFFS reserve any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of PLAINTIFFS' original

notices. For violations that are curable under § 2699.3(c) and that DEFENDANTS intend to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), DEFENDANTS shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, PLAINTIFFS will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which PLAINTIFFS will base their claims, PLAINTIFFS request that the LWDA regard this SECOND AMENDED NOTICE as written notice of PLAINTIFFS' intent to seek civil penalties against DEFENDANTS. Under *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, a PAGA representative has authority to seek penalties for all known violations committed by the employer — regardless of whether the representative experienced all violations personally. *Id.* at 760–761. Moreover, under *Johnson v. Maxim Healthcare Servs., Inc.*, (2021) 66 Cal.App.5th 924, 929, an employee may pursue a claim under PAGA even when that employee's individual claim is time-barred.

PLAINTIFFS, on behalf of PLAINTIFFS, and on behalf of all current and former non-exempt employees employed by any one or more of DEFENDANTS at any location in California within one year of the date of the earliest of PLAINTIFFS' original notices ("NON-EXEMPT AGGRIEVED EMPLOYEES"), allege that the specific provisions of California law that DEFENDANTS have violated, requiring this SECOND AMENDED NOTICE, include but are not limited to: California Labor Code sections 201–203, 204, 208, 216, 221–223, 226, 226.7, 245–248.6, 351, 353, 432, 432.5, 432.6, 432.7, 510, 512, 551, 552, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

Plaintiffs' Employment with Defendant

DEFENDANTS own/owned and operate/operated an industry, business, and establishment within the State of California, including San Bernardino County, Los Angeles County, Orange County, and other counties throughout California. As such, and based upon all the facts and circumstances incident to DEFENDANTS' business in California, DEFENDANTS are subject to the California Labor Code and Wage Orders issued by the Industrial Welfare Commission ("IWC").

DEFENDANTS own, operate, manage and/or staff employees to work at restaurants and/or other location(s) in California, including but not limited to restaurants operating under the name "Panini Kabob Grill."

PLAINTIFF ALEJANDRO is a resident of San Bernardino County, California, who worked for DEFENDANTS in Rancho Cucamonga, California as an hourly-paid, non-exempt employee from approximately January 2021 to approximately June 2021. Throughout PLAINTIFF ALEJANDRO's employment, DEFENDANTS failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide compliant meal periods, failed to

authorize and permit rest periods, failed to pay all earned wages twice per month, failed to keep and maintain records of hours worked and meal periods, failed to timely pay all final wages, failed to furnish accurate wage statements, and failed to indemnify for expenditures incurred in direct discharge of duties.

PLAINTIFF CEBALLOS was employed by DEFENDANTS in California from April of 2021 to August of 2021 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. DEFENDANTS failed to record and pay PLAINTIFF CEBALLOS and other Aggrieved Employees for all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock.

PLAINTIFF MOLINA was employed by DEFENDANTS as a non-exempt employee. PLAINTIFF MOLINA worked for DEFENDANTS as a food server and/or similar title. PLAINTIFF MOLINA worked at DEFENDANTS' Panini Kabob Grill restaurant located in Playa Vista, CA and at DEFENDANTS' Panini Kabob Grill restaurant located in Long Beach, CA. PLAINTIFF MOLINA worked for DEFENDANTS from in or around early 2013 through 2023. PLAINTIFF MOLINA regularly works at least 6–7 hours per day, at least 4 to 5 days per week. DEFENDANTS paid PLAINTIFF MOLINA an hourly rate for time counted by DEFENDANTS as hours worked.

PLAINTIFF ASCENCIO is a former employee of DEFENDANTS. PLAINTIFF ASCENCIO worked for DEFENDANTS as a non-exempt employee with a job title of server and/or a similar title(s) and/or position(s) from in or around October 2021 through on or around July 1, 2023. PLAINTIFF ASCENCIO worked for DEFENDANTS at DEFENDANTS' Long Beach, California location(s). PLAINTIFF ASCENCIO regularly worked at least six (6) to eight (8) hours per day, at least five (5) days per week. DEFENDANTS paid PLAINTIFF ASCENCIO an hourly rate for time counted by DEFENDANTS as hours worked.

PLAINTIFF APARICIO is a former employee of DEFENDANTS. PLAINTIFF APARICIO worked for DEFENDANTS as a non-exempt employee with a job title of busser and/or waiter and/or a similar title(s) and/or position(s) from in or around 2012 through on or around November 3, 2023. PLAINTIFF APARICIO worked for DEFENDANTS at DEFENDANTS' Santa Monica, Century City, and Los Angeles, California location(s). PLAINTIFF APARICIO regularly worked at least five and one-half (5½) hours per day. DEFENDANTS paid PLAINTIFF APARICIO an hourly rate for time counted by DEFENDANTS as hours worked.

As discussed below, PLAINTIFFS' experiences working for DEFENDANTS were typical and illustrative.

The Named Entities Are Joint Employers Of Plaintiffs And Aggrieved Employees

California courts have recognized that the definition of "employer" for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

PLAINTIFFS are informed and believe and thereon allege that at all relevant times DEFENDANTS and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal.4th 512).

PLAINTIFFS further allege there has existed a unity of interest and ownership between DEFENDANTS named above such that any individuality and separateness between the entities has ceased. On the California Secretary of State's website (<https://businesssearch.sos.ca.gov/>), the DEFENDANTS named above have the same owner, entity address and/or mailing address and/or Agent for Service of Process. On information and belief, the DEFENDANTS named above utilize the same standardized employment forms and issue the same employment policies. DEFENDANTS own and operate restaurants in California under the business name Panini Kabob Grill.

PLAINTIFFS believe and hereon assert that DEFENDANTS and unknown entities must be classified as joint employers of PLAINTIFFS for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted PLAINTIFFS to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of PLAINTIFFS at all relevant times, so as to be considered the joint employers of PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES. For example, DEFENDANTS, and each of them, maintain the same principal place of business and/or agent for service of process as provided to the California Secretary of State and/or share some of the same attorneys and/or human resources personnel to oversee employment-related matters. By reason of their status as joint employers of PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. DEFENDANTS, at all relevant times, were an employer or person acting on behalf of employer(s) who violated PLAINTIFFS' and other NON-EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "a natural person who is an owner, director, officer, or managing agent of the employer." Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 566–67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

LABOR CODE VIOLATIONS

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which allowed meal periods were provided each day.

Based on information and belief, DEFENDANTS failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, DEFENDANTS failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of DEFENDANTS' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices. DEFENDANTS further failed and continue to fail to record the true start and end times of PLAINTIFFS' and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and work shifts. Additionally, DEFENDANTS failed and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES.

Additionally, DEFENDANTS failed to comply with Industrial Wage Order 7(A)(3) in that

DEFENDANTS failed to keep time records showing when PLAINTIFFS began and ended each shift and meal period.

DEFENDANTS' failure to keep "accurate and complete" payroll records violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699.

Violations of Labor Code Sections 226(b)–(c), 1198.5, and 432: Time and Pay Records / Personnel Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: the employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate; when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned. Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) provides that compliance must occur "no later than 21 calendar days from the date of the request." An employer's failure to comply entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty. Lab. Code section 226(f).

In addition to their right to time and pay records, employees and their representatives have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5, which requires availability "not later than 30 calendar days from the date the employer receives a written request." An employer's failure to comply likewise entitles a current or former employee to recover a \$750 penalty. Lab. Code section 1198.5(k).

Based on information and belief, DEFENDANTS failed to timely produce or make available PLAINTIFFS' and other current or former employees' personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, PLAINTIFF MOLINA sent a request for payroll and personnel records to DEFENDANTS on March 14, 2022, and again on April 18, 2022. Yet, DEFENDANTS failed to produce any records within the time periods delineated by California labor law.

Defendant Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is 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.

Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law. Labor Code §§ 1194 and 1198 also provide that employees shall not be employed more than eight hours in any workday unless they receive additional compensation. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, DEFENDANTS maintained a policy and practice of not paying PLAINTIFFS and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. DEFENDANTS required PLAINTIFFS and the Aggrieved Employees to work "off-the-clock," uncompensated, by, for example, requiring PLAINTIFFS and the Aggrieved Employees to work unpaid prior to clocking in for the workday and during legally required meal periods. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, DEFENDANTS also failed to maintain accurate records of the hours PLAINTIFFS and the Aggrieved Employees worked.

Based on information and belief, DEFENDANTS implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to DEFENDANTS' control during purported meal periods and/or were otherwise not afforded lawful meal periods, depriving PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed. DEFENDANTS, as a matter of established company policy and procedure, administer a uniform practice of rounding the actual time worked and recorded by PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANTS, so that during the course of their employment, PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES are paid less than they would have been paid had they been paid for actual recorded time rather than "rounded" time.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to DEFENDANTS' policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the-clock work policies and/or practices.

For example, at times, DEFENDANTS manipulated PLAINTIFFS' time records in order to reduce the total number of recorded hours. At times, PLAINTIFFS were scheduled to work shifts that lasted six (6) hours. On some of those shifts, PLAINTIFFS' actual work time was longer than six hours. On such occasions, DEFENDANTS required PLAINTIFFS to clock out at or prior to the sixth hour but to continue working and/or would manipulate PLAINTIFFS' time records such that

PLAINTIFFS' total hours worked were six (6) hours or less, thereby resulting in unpaid hours as well as meal period violations. At times, PLAINTIFFS were scheduled to work shifts that lasted eight (8) hours. On some of those shifts, PLAINTIFFS' actual work time was longer than eight (8) hours. On such occasions, DEFENDANTS required PLAINTIFFS to clock out by the end of the eighth hour but to continue performing work tasks and/or would manipulate PLAINTIFFS' time records such that PLAINTIFFS' total hours worked were eight (8) hours or less, resulting in DEFENDANTS' failure to pay PLAINTIFFS for all work time and the underpayment of minimum wages and overtime wages owed to PLAINTIFFS.

DEFENDANTS also failed to compensate PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES for time spent performing job duties before clocking in to work and/or after clocking out. For example, based on information and belief, the manager in charge of opening the restaurant was required to enable the alarm and/or unlock the restaurant prior to clocking in to work. Similarly, upon closing the restaurant, the manager or manager on duty was required to enable the alarm and lock the restaurant after clocking out for a shift. Based on further information and belief, when PLAINTIFFS or NON-EXEMPT AGGRIEVED EMPLOYEES were in charge of closing their location(s), they were required to first clock out before enabling the alarm, turning off all the lights in the facility, and/or locking the doors, resulting in additional off-the-clock post-shift work that was not compensated.

Moreover, DEFENDANTS required pre-shift off-the-clock temperature checks/screenings. DEFENDANTS required PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES to undergo pre-shift temperature screenings and fill out a form confirming that they were not experiencing any symptoms related to COVID-19. The form required the employee's name, date, position and a response to approximately five questions. This process resulted in at least three (3) to seven (7) minutes of off-the-clock work depending, in part, on the number of employees that were clocking in.

At times, DEFENDANTS' time-keeping system malfunctioned, and PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES were required to wait a few minutes for the system to work and/or for their manager to assist with the clock-in procedure, resulting in a few minutes of unpaid time.

Based on information and belief, DEFENDANTS failed to pay PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by DEFENDANTS. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on information and belief, DEFENDANTS did not compensate PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES for time spent donning and doffing personal protective

equipment and/or uniforms (e.g., rubber gloves, hairnets, aprons, hats, and/or face masks) during meal periods, before the start of a scheduled shift, and/or after completing a scheduled shift, resulting in the underpayment of wages owed to PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, at times, PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES were required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they received to their personal phones/mobile devices and were required to respond to, including but not limited to, communications from supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, at times, DEFENDANTS required PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES to travel between DEFENDANTS' restaurants, facilities and/or locations and/or run business errands without compensating NON-EXEMPT AGGRIEVED EMPLOYEES for all travel time.

Based on further information and belief, DEFENDANTS implemented a time-rounding system that, as applied, systematically deprived PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system would almost always, if not always, result in understating actual compensable work time.

Based on information and belief, DEFENDANTS failed to pay PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES the applicable minimum wage for the county and/or city within which PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES worked in California.

Moreover, based on information and belief, DEFENDANTS failed to pay PLAINTIFFS and/or other NON-EXEMPT AGGRIEVED EMPLOYEES split shift premium wages when they worked split shifts during the relevant period. For example, based on information and belief, at times, DEFENDANTS required PLAINTIFFS and/or other NON-EXEMPT AGGRIEVED EMPLOYEES to work two separate shifts in the same day. Based on information and belief, DEFENDANTS failed to pay split shift compensation whenever PLAINTIFFS' and/or NON-EXEMPT AGGRIEVED EMPLOYEES' work schedules were interrupted by non-paid non-working periods established by DEFENDANTS, which resulted in a violation of the applicable Wage Order (see section 4 of all applicable Wage Orders: "When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday."). See also Cal. Code Regs. tit. 8, § 11050. DEFENDANTS also failed to separately itemize these split shift premium wages on PLAINTIFFS' and/or other NON-EXEMPT AGGRIEVED EMPLOYEES' wage statements, in violation of Labor Code sections 510, 1194 and all applicable IWC Wage Orders.

Based on information and belief, DEFENDANTS failed to compensate PLAINTIFFS and NON-

EXEMPT AGGRIEVED EMPLOYEES for all time spent completing DEFENDANTS' required trainings and/or courses (e.g., food safety and/or food handler courses) and/or testings and/or certifications (e.g., food handler certifications).

DEFENDANTS' failure to pay for all time worked by virtue of their time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages as well as unpaid overtime wages for those PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week. Based on information and belief, DEFENDANTS had actual and/or constructive knowledge that their time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods, and/or other off-the-clock work resulted in the underpayment of minimum wages owed to PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum and overtime wage laws.

As a result, DEFENDANTS are liable to PLAINTIFFS and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Overtime Violations

California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code § 510. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week.

Based on information and belief, DEFENDANTS violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

Based on information and belief, DEFENDANTS failed and continue to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, DEFENDANTS failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, bonus pay, non-discretionary incentive pay, and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed

to PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES. DEFENDANTS' non-discretionary incentive program provided all employees paid on an hourly basis with incentive compensation when the employees met the various performance goals set by DEFENDANTS. When calculating the regular rate of pay in order to pay overtime and meal and rest break premiums, DEFENDANTS failed to include the incentive compensation as part of the employees' "regular rate of pay." As a matter of law, such incentive compensation must be included in the "regular rate of pay."

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198–1199, and all applicable IWC Wage Orders. These violations subject DEFENDANTS to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, § 20.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal period by the end of their fifth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period by the end of their tenth hour of work. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with a required meal period(s).

Despite these legal requirements, DEFENDANTS wrongfully failed to provide PLAINTIFFS and the Aggrieved Employees with legally compliant meal periods. DEFENDANTS regularly, but not always, required PLAINTIFFS and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating PLAINTIFFS and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Further, DEFENDANTS from time to time failed to provide PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES with a second off-duty meal period for some workdays in which these employees were required by DEFENDANTS to work ten (10) hours of work. Instead, DEFENDANTS continued to assert control over PLAINTIFFS and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying PLAINTIFFS and the Aggrieved Employees permission to take a meal period. Accordingly, DEFENDANTS' policy and practice was not to provide meal periods to PLAINTIFFS and the Aggrieved Employees in compliance with California law.

PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5½) hours or more, entitling them to at least one meal period.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off-duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all of their meal

periods due to understaffing, the nature and constraints of their job duties, and/or commentary from supervisors pressuring them to take non-compliant meal periods or skip meal periods completely. For example, at least twice a week, PLAINTIFF MOLINA experienced an interrupted, late or shortened meal period. At times, PLAINTIFFS were required to clock out for a purported meal period but were required to continue working while off-the-clock. On such days, PLAINTIFFS took a meal period at a later time when the restaurant was not as busy. Based on information and belief, PLAINTIFFS were not paid meal premiums for unlawful meal periods.

For example, PLAINTIFF ASCENCIO was frequently required to take interrupted meal periods and/or shortened meal periods and/or take meal periods late (i.e., after the fifth hour of work) due to the need to complete assigned job duties.

For example, at times, PLAINTIFF APARICIO was required to take shortened meal periods and/or interrupted meal periods and/or take meal periods after working more than five (5) hours due to the need to complete assigned job duties.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during unpaid meal periods. DEFENDANTS also engaged in the practice of rounding the meal period times to avoid paying penalties to PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, per DEFENDANTS' uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute meal period.

Based on information and belief, despite DEFENDANTS' failure to provide lawful meal periods, DEFENDANTS implemented a policy and/or practice of rounding the start and end times of PLAINTIFFS' and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods, despite having actual and/or constructive knowledge that PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods. Moreover, based on information and belief, DEFENDANTS failed to keep accurate records of the true start and end times of PLAINTIFFS' and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. To the extent meal periods were recorded, DEFENDANTS illegally rounded the start and end times of purported meal periods resulting in PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. See *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, DEFENDANTS failed to instruct PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, DEFENDANTS did not have a compliant written meal

period policy, nor did DEFENDANTS have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004.

PLAINTIFFS and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with a required meal period(s). DEFENDANTS, however, regularly failed to pay PLAINTIFFS and the Aggrieved Employees the additional wages to which they were entitled for meal periods that were not provided. DEFENDANTS either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed meal period premium.

As a result, DEFENDANTS are liable to PLAINTIFFS and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, DEFENDANTS have wrongfully failed to authorize and permit PLAINTIFFS and the Aggrieved Employees to take legally compliant rest periods. DEFENDANTS regularly required PLAINTIFFS and the Aggrieved Employees to work in excess of four consecutive hours a day without DEFENDANTS authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating PLAINTIFFS and the Aggrieved Employees for rest periods that were not authorized or permitted. These employees were denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or more.

Further, DEFENDANTS failed to advise PLAINTIFFS and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. See *Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017).

Moreover, under California law rest periods must be a "net" ten minutes in a suitable rest area. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 268. The employer must clearly communicate what "net" ten minutes means. *Id.*; see also *Bufl v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal.App.4th 1193, 1199.

PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest periods per California law. Based on information and belief, DEFENDANTS had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, DEFENDANTS did not have a compliant written rest period policy, nor did DEFENDANTS have any sort of compliant rest period policy in practice.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest periods completely or otherwise take non-compliant rest periods. For example, PLAINTIFF MOLINA was rarely afforded the opportunity to take a lawful rest period or any rest period at all. PLAINTIFF MOLINA was regularly denied the opportunity to take timely, duty-free rest periods. Additionally, DEFENDANTS' policy restricted PLAINTIFFS and the NON-EXEMPT AGGRIEVED EMPLOYEES from unconstrained walks based on DEFENDANTS' rule stating that PLAINTIFFS and the NON-EXEMPT AGGRIEVED EMPLOYEES cannot leave the work premises during their rest period.

Moreover, based on information and belief, DEFENDANTS failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, DEFENDANTS implemented policies and/or practices that failed to relieve PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and DEFENDANTS' control during rest periods. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest periods were only taken once tasks were completed, and/or as time permitted.

PLAINTIFFS and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest periods. DEFENDANTS, however, regularly failed to pay PLAINTIFFS and the Aggrieved Employees the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take. DEFENDANTS either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited

to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

As a result, DEFENDANTS are liable to PLAINTIFFS and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Provide Suitable Resting Facilities

Per section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

DEFENDANTS' locations/facilities are generally similar in layout and design, and there was, and continues to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. DEFENDANTS could have provided NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within DEFENDANTS' facilities/locations with reasonable or no modification, but instead denied and continue to deny employees with suitable areas to rest (e.g., a breakroom). As a result, NON-EXEMPT AGGRIEVED EMPLOYEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the wall, or search for facilities outside of DEFENDANTS' premises which are not designated or reserved for rest, such as their personal vehicles.

DEFENDANTS did not provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods. Moreover, DEFENDANTS did not inform PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES of their rights to suitable resting facilities under California law. DEFENDANTS' failure to provide suitable resting facilities violated and continues to violate the applicable Wage Order, section 13(B) and the California Labor Code, including but not limited to section 1198.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay PLAINTIFFS and the Aggrieved Employees for all wages as discussed above, DEFENDANTS also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Cal. Lab. Code § 204(d) provides the requirements of this section shall be 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. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium

wages owed, and wages owed for overtime hours worked. However, during all such times, DEFENDANTS systematically failed and refused to pay PLAINTIFFS and the Aggrieved Employees all wages due, and failed to pay those wages twice a month, in that they were not paid all wages for all meal periods not provided by DEFENDANTS, all wages for all rest periods not authorized and permitted by DEFENDANTS, and all wages for all hours worked.

Based on information and belief, DEFENDANTS further failed to incorporate all non-discretionary compensation, including but not limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary compensation into the regular rate of pay used to calculate overtime, resulting in a miscalculation of the overtime wage rate and additional violations of Labor Code § 204.

Moreover, DEFENDANTS are liable to PLAINTIFFS and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

PLAINTIFFS seek penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

DEFENDANTS, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by PLAINTIFFS and the Aggrieved Employees.

DEFENDANTS' failure to provide and maintain records required by the California Labor Code and IWC Wage Orders deprived PLAINTIFFS and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in DEFENDANTS' records. Therefore, PLAINTIFFS and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to DEFENDANTS. As a direct result, PLAINTIFFS and the Aggrieved Employees have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel DEFENDANTS to fully perform their obligations under state law, all to their respective damage in amounts according to proof at trial.

Violation of California Labor Code §§ 245–248.5 — Sick Leave Violations

Throughout the relevant time period, DEFENDANTS failed to provide proper paid sick leave to PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES. DEFENDANTS either

failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES. Specifically, Cal. Lab. Code Section 246(l)(2) requires that paid sick time for nonexempt employees 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. DEFENDANTS violated Cal. Lab. Code Section 246 by failing to pay sick pay at the regular rate of pay — rather than pay sick pay at the regular rate of pay, DEFENDANTS underpaid sick pay to PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES at their base rates of pay. DEFENDANTS also failed to base accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work) and failed to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, DEFENDANTS further failed to provide notice of the correct sick leave amount balance available to PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statements. Based on information and belief, DEFENDANTS failed to put NON-EXEMPT AGGRIEVED EMPLOYEES on notice of their paid sick leave rights or put their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, DEFENDANTS failed to maintain accurate records of used sick leave and the balance of paid sick leave throughout the relevant time period.

But for this failure, PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations. In violation of Labor Code section 247.5, DEFENDANTS failed to maintain records documenting the hours worked and paid sick days accrued and used by PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, DEFENDANTS further failed and continue to fail to comply with Labor Code section 246, by failing to provide PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages. PLAINTIFFS request all appropriate relief under the PAGA and these statutes, including but not limited to Labor Code sections 233 and 234.

Failure to Provide Supplemental Paid Sick Leave

Labor Code section 248.2 provides that all employers with 26 or more employees are required to

provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, DEFENDANTS violated Labor Code section 248.2 by not providing PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave. Based on information and belief, DEFENDANTS failed to provide Supplemental Paid Sick Leave in 2022 in violation of Labor Code section 248.6.

Refusal to Make Payment

Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

DEFENDANTS violated and continue to violate Labor Code section 216 by failing to pay PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154–1155. These violations subject DEFENDANTS to civil penalties under Labor Code section 225.5.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 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.

Within the applicable statute of limitations, the employment of PLAINTIFFS and many other Aggrieved Employees ended, and the employment of others will be terminated. However, during the relevant time period, DEFENDANTS failed, and continue to fail to pay PLAINTIFFS and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code §§ 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving DEFENDANTS' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages. DEFENDANTS' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal.App.4th 365 (2005).

Based on information and belief, DEFENDANTS failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. DEFENDANTS untimely provide final wages to NON-EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201–202. Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES' final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials). These violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.

For example, DEFENDANTS did not furnish PLAINTIFF APARICIO with any final paycheck for at least approximately two (2) days following PLAINTIFF APARICIO's termination, and PLAINTIFF APARICIO's late final paycheck was devoid of all wages owed, including without limitation, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

Based on further information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES experienced breaks in employment caused by DEFENDANTS whereby NON-EXEMPT AGGRIEVED EMPLOYEES would not be called in for work for longer than a single pay period due to DEFENDANTS' lack of work or lack of assignments. Such instances qualify as a discharge of employment. Yet, DEFENDANTS failed to timely pay all owed wages at the end of such periods of employment, in violation of Labor Code sections 201–202.

Moreover, DEFENDANTS are liable to PLAINTIFFS and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Violation of Labor Code Section 208

Labor Code Section 208 provides: Every employee who is discharged shall be paid at the place of discharge, and every employee who quits shall be paid at the office or agency of the employer in the county where the employee has been performing labor. All payments shall be made in the manner provided by law.

Based on information and belief, DEFENDANTS have a policy and practice of failing to provide

NON-EXEMPT AGGRIEVED EMPLOYEES who are terminated with their final paychecks at the place of discharge and/or of failing to provide NON-EXEMPT AGGRIEVED EMPLOYEES with their final paychecks at the office or agency of DEFENDANTS in the county where the work was performed, in violation of Labor Code Section 208.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Throughout the statutory period, DEFENDANTS failed to furnish PLAINTIFFS and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law). PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements DEFENDANTS provided to PLAINTIFFS and the Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). When the hours shown on the wage statements were added up, they did not equal the actual total hours worked during the pay period.

DEFENDANTS issued wage statements to PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES that also failed to indicate the earned gross and net wages during the pay period,

the correct applicable rates of pay for all hours worked, and the "total hours worked" (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement gives rise to an inference of injury under Labor Code Section 226. *Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337.

Based on information and belief, DEFENDANTS also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, wage statements issued by DEFENDANTS failed to list the inclusive dates of the pay period for which the NON-EXEMPT AGGRIEVED EMPLOYEE is being paid. For example, at times, DEFENDANTS issued wage statements containing retroactive pay without including the inclusive dates of the accurate pay period for that retroactive pay, further failing to list the total hours worked for the pay period the retroactive pay corresponds with, in violation of Labor Code sections 226(a)(2) and/or 226(a)(6).

Moreover, based on information and belief, DEFENDANTS issued wage statements to PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer. These violations subject DEFENDANTS to civil penalties under Labor Code section 226. Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.

Because DEFENDANTS violated Labor Code § 226, PLAINTIFFS and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, PLAINTIFFS and similarly Aggrieved Employees are entitled to recover from DEFENDANTS the greater of their actual damages caused by DEFENDANTS' failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, DEFENDANTS are liable to PLAINTIFFS and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Unlawful Deductions

Labor Code section 221 prohibits an employer from "collect[ing] or receiv[ing] from an employee any part of wages theretofore paid by said employer to said employee." Based on information and

belief, DEFENDANTS made unlawful deductions from PLAINTIFFS' and NON-EXEMPT AGGRIEVED EMPLOYEES' paychecks during the relevant period, including without limitation, deducting costs of uniforms and/or other business costs and/or deducting wages for purported overpayments from previous pay periods and/or unlawfully deducting wages for negligently damaged property and/or unlawfully deducting transaction fees/pay/money card fees and/or deducting costs advanced by DEFENDANTS. Such practices are in violation of including but not limited to Labor Code Sections 221–222, which subjects DEFENDANTS to civil penalties under Labor Code Section 2699. Each violation results in a separate civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.

Reporting Time Pay Violations

Section 5 of all applicable IWC Wage Orders provides that each 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. Cal. Code Regs., tit. 8 § 11040, subd. 5(A). When an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the minimum wage. Cal. Code Regs., tit. 8, § 11040, subd. 5(B).

NON-EXEMPT AGGRIEVED EMPLOYEES were not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order. For example, based on information and belief, at times, NON-EXEMPT AGGRIEVED EMPLOYEES reported to work for a scheduled shift but were sent home and/or were not put to work and were not paid all owed reporting time pay wages in accordance with California law. Additionally, when DEFENDANTS required PLAINTIFFS and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and DEFENDANTS failed to pay these employees reporting time pay as required.

Based on information and belief, DEFENDANTS have a policy and practice of failing to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California law, including but not limited to, the applicable IWC Wage Order, Section 5, and the California Labor Code, including but not limited to section 1198.

Seating Violations

Per section 14(A-B) of all applicable IWC Wage Orders and California Code of Regulations, Title 8, Section 11070(14), employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in work duties that

would not permit them to be seated. Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand.

Based on information and belief, DEFENDANTS failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations. Based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. DEFENDANTS failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting DEFENDANTS to civil penalties under Labor Code sections 1199 and 2699.

Violation of Labor Code §§ 351 and 353 — Gratuity Violations

Labor Code Section 351 prohibits employers and their agents from sharing in or keeping any portion of a gratuity left for or given to one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions from gratuities, or from using gratuities as direct or indirect credits against an employee's wages. Labor Code Section 353 mandates employers to keep accurate records of all gratuities received.

Based on information and belief, DEFENDANTS failed to ensure that NON-EXEMPT AGGRIEVED EMPLOYEES fully received the gratuities left for them by patrons, in that DEFENDANTS and their agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor Code Section 351. Based on further information and belief, DEFENDANTS also failed/fail to keep accurate records of all tips received, in violation of Labor Code Section 353. Based on information and belief, DEFENDANTS failed to pay gratuities paid by customers using credit cards to NON-EXEMPT AGGRIEVED EMPLOYEES by the next regular payday following the credit card payment, in violation of Labor Code section 351.

Based on information and belief, DEFENDANTS charge an additional service charge to their customers/patrons. Customers are led to believe that the service charge will be paid to DEFENDANTS' NON-EXEMPT AGGRIEVED EMPLOYEES. Instead, DEFENDANTS keep a majority (if not the entirety) of the service charge, thereby depriving NON-EXEMPT AGGRIEVED EMPLOYEES of the service charge/gratuity that is left by the patron/customer. See *O'Grady v. Merchant Exchanges Production, Inc.*, 41 Cal.App.5th 771, 790 (a mandatory service

charge can constitute a gratuity that is intended for the employees providing the service).

Pursuant to PAGA, DEFENDANTS are liable for penalties of \$100 per pay period payable to each NON-EXEMPT AGGRIEVED EMPLOYEE for the first violation of Labor Code Sections 351 and 353 they experienced within the statutory period, and \$200 per pay period for each additional violation.

Failure to Pay Vested Vacation/Paid Time Off

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, DEFENDANTS had and continue to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off (including but not limited to, all owed vacation pay/paid time off paid at the final rate including non-discretionary compensation, including but not limited to, shift differentials) to NON-EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Standard Conditions of Labor Violations and Statutory Wage Violations

Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission. Therefore, DEFENDANTS' violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, business expenses, reporting time pay, split shift premiums, suitable resting facilities, seating, and other violations described herein result in separate violations of sections 1198 and 1199, which subject DEFENDANTS to civil penalties under Labor Code sections 1197.1 and 2699.

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages. As described above, DEFENDANTS willfully and systematically denied PLAINTIFFS and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. As such, PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees,

costs, and interest thereon, pursuant to Labor Code § 2699(f)–(g).

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, DEFENDANTS wrongfully required PLAINTIFFS and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for DEFENDANTS. PLAINTIFFS and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses in the form of work attire. PLAINTIFFS and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for DEFENDANTS, but DEFENDANTS failed to indemnify PLAINTIFFS and the Aggrieved Employees for these employment-related expenses.

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. See *Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles. See *Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554.

Based on information and belief, DEFENDANTS shifted the costs of doing business onto PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for business expenses, including but not limited to, uniforms and/or the use of PLAINTIFFS' and NON-EXEMPT AGGRIEVED EMPLOYEES' personal mobile phones and data usage for work-related purposes including but not limited to receiving and responding to work-related messages and/or phone calls. For example, PLAINTIFFS regularly received work-related calls to their personal cell phones. At least once or twice per pay period, PLAINTIFFS received work-related calls regarding a work schedule change and/or the need to cover another employee's shift. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES are required to purchase and maintain work uniforms including but not limited to a white polo shirt with DEFENDANTS' logo, and a black apron which DEFENDANTS require them to wear during work hours. DEFENDANTS only provide one apron to each NON-EXEMPT AGGRIEVED EMPLOYEE. Due to regular use, and wear and tear, NON-EXEMPT AGGRIEVED EMPLOYEES are required to supply additional aprons.

For example, PLAINTIFF APARICIO was required to purchase and/or maintain a uniform shirt, apron, and slip-resistant shoes and/or other uniforms, work clothing/work shoes, protective equipment and/or safety gear and/or hand tools required for work; however, DEFENDANTS did not provide PLAINTIFF APARICIO with any and/or full reimbursement for the business expenses

PLAINTIFF APARICIO incurred in connection therewith. Moreover, PLAINTIFF APARICIO was required to use his personal vehicle for work purposes, including but not limited to, to make deliveries for DEFENDANTS and/or otherwise use PLAINTIFF APARICIO's personal vehicle to carry out his assigned job duties; however, DEFENDANTS failed to provide PLAINTIFF APARICIO with any and/or full reimbursement for the business expenses incurred in connection therewith.

Based on information and belief, at times, DEFENDANTS required PLAINTIFFS and NON-EXEMPT AGGRIEVED EMPLOYEES to use their personal vehicles for work without reimbursing them for the personal vehicle expenses incurred in connection therewith, including but not limited to, travel between DEFENDANTS' facilities/restaurants to carry out assigned job duties.

As a pattern and practice, DEFENDANTS regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out DEFENDANTS' orders and/or carrying out the duties assigned by DEFENDANTS. DEFENDANTS' failure to provide PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

As a result, DEFENDANTS are liable to PLAINTIFFS and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify PLAINTIFFS and the Aggrieved Employees for necessary business expenditures.

Unlawful Agreements / Unlawful Criminal History Inquiries

Unlawful Agreements. Labor Code section 432.5 provides that "no employer . . . shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer . . . to be prohibited by law." Based on information and belief, DEFENDANTS required PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited to unlawful non-solicitation/non-compete agreements, unlawful confidentiality and/or nondisclosure agreements, unlawful releases and/or waivers, including but not limited to, unlawful meal period waivers, unlawful forum selection clauses and/or choice of law provisions/agreements, and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment, in violation of Labor Code section 432.5.

Labor Code section 432.6(a) provides that "a person shall not, as a condition of employment, continued employment, or the receipt of any employment-related benefit, require any applicant for employment or any employee to waive any right" Based on information and belief, DEFENDANTS required NON-EXEMPT AGGRIEVED EMPLOYEES to sign meal period waivers that were universally signed as a condition of employment, including but not limited to, during the onboarding process. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES to sign unlawful meal period waivers as a condition of obtaining and/or maintaining employment, DEFENDANTS violated Labor Code sections 432.5 and 432.6.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions. Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA — CA Civil Code section 1786, et seq.) and the Fair Credit Reporting Act (FCRA — 15 U.S.C. section 1681, et seq.) mandate several requirements prior to and following an employee background check. Based on information and belief, DEFENDANTS ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, resulting in a further violation of Labor Code section 432.5. Based on information and belief, DEFENDANTS also required NON-EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA, and required ongoing consent to conduct background checks throughout the duration of employment. Based on further information and belief, DEFENDANTS knew that requiring such agreement was unlawful. By requiring NON-EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful provisions as a condition of employment, DEFENDANTS violated Labor Code section 432.5.

Unlawful Inquiries into Criminal History. Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, DEFENDANTS asked PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on their employment application, in violation of California law. Upon information and belief, DEFENDANTS, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act ("FEHA"), asked PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application. By asking about arrests not resulting in convictions, DEFENDANTS violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an

employment offer, DEFENDANTS violated California's Fair Chance Act, and thereby violated Labor Code section 432.5.

Unlawful PAGA Waiver

Additionally, DEFENDANTS violated Labor Code section 432.5 by requiring PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and/or representative actions as a condition of employment. For example, based on information and belief, DEFENDANTS required PLAINTIFFS to sign an arbitration agreement in writing that stated the following, "By signing this agreement, I am agreeing to waive any substantive or procedural rights that I may have to bring an action on a . . . private attorney general, representative or other similar basis." Such language is unlawful.

An action pursuant to PAGA ". . . is a representative action on behalf of the state." *Kim v. Reins Int'l California, Inc.*, (2020) 9 Cal.5th 73, 86–87. It is well settled that agreements purporting to waive an employee's right to a trial of PAGA claims is contrary to California law and unenforceable. See *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 384. Upon information and belief, DEFENDANTS required PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring PLAINTIFFS, NON-EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, DEFENDANTS required written agreement to an unlawful provision as a condition of employment which is a violation of Labor Code section 432.5.

ACTION FOR CIVIL PENALTIES UNDER PAGA

In light of the above, PLAINTIFFS allege that DEFENDANTS violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum, straight time, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements;

8. Labor Code § 2802 by failing to indemnify for necessary expenditures;
9. Labor Code §§ 245–248.6 by failing to provide and properly calculate sick leave;
10. Labor Code §§ 248.2 and 248.6 by failing to provide Supplemental Paid Sick Leave;
11. Labor Code § 216 by refusing to pay wages due and payable;
12. Labor Code §§ 221–222 by making unlawful deductions;
13. Labor Code § 208 by failing to pay wages at the place of discharge;
14. Applicable IWC Wage Order, Section 5 and Cal. Code Regs., tit. 8, § 11040, subd. 5(A)–(B) by failing to pay reporting time wages;
15. Applicable IWC Wage Order, Section 14(A-B), Cal. Code Regs., Title 8, Section 11070(14), and Labor Code §§ 1198–1199 by failing to provide suitable seating;
16. Applicable IWC Wage Order, Section 13(B) and Labor Code § 1198 by failing to provide suitable resting facilities;
17. Labor Code §§ 351 and 353 by failing to pay and maintain records of gratuities;
18. Labor Code § 227.3 by failing to pay vested vacation/paid time off upon separation;
19. Labor Code §§ 432.5, 432.6, and 432.7 by requiring unlawful agreements and making unlawful criminal history inquiries; and
20. Labor Code § 432.5 by requiring an unlawful PAGA waiver.

Therefore, on behalf of all Aggrieved Employees, PLAINTIFFS seek applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 225.5, 226.3, 1174.5, 1197.1, and 2699(f)(2). DEFENDANTS have violated the above-referenced California Labor Code provisions, the applicable IWC Wage Orders, as well as other laws, and are liable for all applicable premium wages, statutory and civil penalties, interest, attorneys' fees, and costs.

The purpose of this Second Amended Notice is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, PLAINTIFFS will seek these penalties in a civil action, on behalf of PLAINTIFFS and all NON-EXEMPT AGGRIEVED EMPLOYEES of DEFENDANTS within one year of the date of this

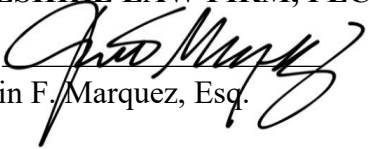
LWDA
Second Amended Notice of Labor Code Violations and
PAGA
May 29, 2026
Page 31 of 31

letter as allowed by law.

PLAINTIFFS have placed DEFENDANTS on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact us.

Sincerely,

WILSHIRE LAW FIRM, PLC

By: 

Justin F. Marquez, Esq.

CROSNER LEGAL, P.C.

By: 

Jamie K. Serb, Esq.

Matthew E. Crawford, Esq.

PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-854152-21
Plaintiff for PAGA Case: Erika Lizbeth Merino Alejandro
Filer/Attorney for PAGA Case: Justin Marquez
Law Firm for PAGA Plaintiff: Wilshire Law Firm, PLC
Employer: Santa Eastvale, Inc. dba Panini Kabob Grill
Date Case Received:
Employer Filer Firm:
Court Type: California Superior Courts
Court Name: San Bernardino County Superior Court
PAGA Court Case Number: CIV SB 2202254
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
Amended Notice Submitted on 01/28/2022 10:37:03 AM by Justin Marquez	2022 01-28 Santa Eastvale, Inc. dba Panini Kabob Grill - Amended PAGA Letter (FINAL).pdf	01/28/2022 10:37 AM	Amended Notice
Amended Notice Submitted on 07/21/2026 04:32:42 PM by Chase Stern	2026-07-21 Santa Eastvale - Second Amended PAGA Ntc (FINAL).pdf	07/21/2026 04:34 PM	Amended Notice
Court Complaint Submitted on 11/10/2023 11:24:19 AM by Justin Marquez	2022 01-28 Santa Eastvale, Inc. dba Panini Kabob Grill - PAGA Complaint (CON.pdf	11/10/2023 11:24 AM	Court Complaint
PAGA Notice Submitted on 11/23/2021 10:54:09 AM by Justin Marquez	2021 11-23 - Santa Eastvale, Inc. dba Panini Kabob Grill - PAGA Letter (FINAL).pdf	11/23/2021 10:54 AM	PAGA Notice

Exhibit 4



Vardui Sarkisian <vardui@crosnerlegal.com>

Thank you for your Court Complaint Submission.

1 message

DIR PAGA Unit <no-reply@formassembly.com>
To: vardui@crosnerlegal.com

Wed, Aug 26, 2026 at 1:54 PM

08/26/2026 01:54:31 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-854152-21
Plaintiff for PAGA Case: Erika Lizbeth Merino Alejandro
Filer/Attorney for PAGA Case: Justin Marquez
Law Firm for PAGA Plaintiff: Wilshire Law Firm, PLC
Employer: Santa Eastvale, Inc. dba Panini Kabob Grill
Date Case Received:
Employer Filer Firm:
Court Type: California Superior Courts
Court Name: San Bernardino County Superior Court
PAGA Court Case Number: CIVSB2202254
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
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Amended Notice Submitted on 07/21/2026 04:32:42 PM by Chase Stern	2026-07-21 Santa Eastvale - Second Amended PAGA Ntc (FINAL).pdf	07/21/2026 04:34 PM	Amended Notice
Court Complaint Submitted on 08/27/2026 08:39:44 AM by Benjamin Haber	2026-08-19 Santa Eastvale - FAC.pdf	08/27/2026 08:39 AM	Court Complaint
Court Complaint Submitted on 11/10/2023 11:24:19 AM by Justin Marquez	2022 01-28 Santa Eastvale, Inc. dba Panini Kabob Grill - PAGA Complaint (CON).pdf	11/10/2023 11:24 AM	Court Complaint
PAGA Notice Submitted on 11/23/2021 10:54:09 AM by Justin Marquez	2021 11-23 - Santa Eastvale, Inc. dba Panini Kabob Grill - PAGA Letter (FINAL).pdf	11/23/2021 10:54 AM	PAGA Notice



Gerardo Galaviz <gerardo@bamlawca.com>

Thank you for your Court Complaint Submission.

1 message

DIR PAGA Unit <no-reply@formassembly.com>

Thu, Aug 27, 2026 at 12:36 PM

To: gerardo@bamlawca.com

08/27/2026 12:35:59 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 5

Exhibit 6

Crosner Legal Time Report

Tasks	Sepideh Ardestani	Matthew Crawford	Jamie Serb	Zach Crosner	Kiara Bramasco	Branden Hamilton
Pre-filing Case Investigation	0.0	5.2	0.0	2.3	7.5	1.5
Pleadings and Law and Motion	2.3	5.7	0.0	4.5	3.6	15.7
Discovery and Post-Filing Investigation	15.4	3.3	0.0	1.8	0.0	0.0
Court Appearances	1.6	0.0	0.0	0.0	0.0	0.0
Case Management; Litigation Strategy & Analysis	55.8	14.6	37.5	8.2	0.0	0.0
Mediation and Settlement	20.6	8.5	18.2	6.6	0.0	5.1
Total Hours	95.7	37.3	55.7	23.4	11.1	22.3
Hourly Rate	\$800	\$900	\$800	\$850	\$650	\$650
Lodestar	\$76,560	\$33,570	\$44,560	\$19,890	\$7,215	\$14,495

Crosner Legal Total Hours: 245.5

Crosner Legal Total Lodestar: \$196,290