

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Michael Linfield

MESSRELIAN LAW INC.

Harout Messrelian, Esq., SB# 272020
500 N. Central Ave., Suite 840
Glendale, California 91203
Telephone: (818) 484-6531
Facsimile: (818) 956-1983
Email: hm@messrelianlaw.com

Attorneys for Plaintiff, Calyndra Davis

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CALYNDRA DAVIS,

Plaintiff,

vs.

KAM ENTERPRISES LLC
dba FARMER BOYS; LEEZA JAYNE
BRAZIER; and DOES 1 to 25, inclusive

Defendants.

) CASE NO.: **22STCV17280**

) **COMPLAINT FOR DAMAGES FOR:**

-) **1) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**
) **2) FAILURE TO PAY MINIMUM**
) **WAGES;**
) **3) FAILURE TO PAY OVERTIME;**
) **4) FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**
) **5) FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**
) **6) FAILURE TO PAY WAGES WHEN**
) **EMPLOYMENT ENDS;**
) **7) VIOLATION OF LABOR CODE**
) **SECTION 558;**
) **8) FAILURE TO MAINTAIN**
) **ACCURATE RECORDS;**
) **9) FAILURE TO GIVE REST BREAKS;**
) **10) FAILURE TO GIVE MEAL BREAKS**
) **11) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**
) **12) FAILURE TO PROVIDE**
) **PERSONNEL RECORDS;**
) **13) FAILURE TO PROVIDE PAY**
) **RECORDS;**
) **14) RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 1102.5;**
) **15) WRONGFUL TERMINATION IN**
) **VIOLATION OF PUBLIC POLICY;**
) **16) VIOLATION OF CALIFORNIA**
) **BUSINESS AND PROFESSIONS**

1) **CODE SECTION 17200.**
2) **DEMAND FOR JURY TRIAL**
3)
4)
5)
6)

7 **COMES NOW** Plaintiff, CALYNDRA DAVIS (hereinafter “Plaintiff”), and alleges as
8 follows:

9 **PARTIES, JURISDICTION, VENUE**

10 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
11 County of Los Angeles in this judicial district because Defendants KAM ENTERPRISES LLC
12 dba FARMER BOYS, LEEZA JAYNE BRAZIER, and DOES 1 to 25, inclusive do business in
13 the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and
14 because the work that was performed by Plaintiff in the County of Los Angeles is the subject of
15 this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

16 2. Plaintiff is a female resident of the County of Los Angeles, State of California.

17 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant KAM
18 ENTERPRISES LLC dba FARMER BOYS is and was a California limited liability company,
19 doing business in Los Angeles County, and which employed Plaintiff.

20 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant
21 LEEZA JAYNE BRAZIER is a female resident of the County of Los Angeles, State of
22 California, and the owner, director, officer, and/or managing agent of KAM ENTERPRISES
23 LLC dba FARMER BOYS (Gardena). Plaintiff is informed and believes and thereon alleges that
24 LEEZA JAYNE BRAZIER managed and was directly involved in the day-to-day operations of
25 KAM ENTERPRISES LLC dba FARMER BOYS (Gardena) and is being included in this
26
27
28

lawsuit pursuant to Labor Code Section 558.1. KAM ENTERPRISES LLC dba FARMER BOYS and LEEZA JAYNE BRAZIER are hereinafter collectively referred to as “Defendants”, or “KAM”.

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and under the authority of their agency, employment, or representative capacity, with the consent of his/her codefendants.

GENERAL ALLEGATIONS

7. Plaintiff started working for KAM at the Farmers Boys restaurant in Gardena on or around September/October 2021. Plaintiff was wrongfully terminated in November 2021.

8. Plaintiff was classified as an hourly, non-exempt employee who earned approximately \$13.00 per hour.

9. It is Plaintiff’s position that KAM has violated numerous Labor Code Sections against Plaintiff and other similarly situated aggrieved employees.

10. KAM did not provide Plaintiff and other similarly situated aggrieved employees with the minimum wages to which they were entitled for all work performed and did not compensate her and others for all hours worked pursuant to California Labor Code sections 1194, 1197 and

1 1197.1. Plaintiff and others were not paid for all hours worked and consistently worked “off the
2 clock”. This is so because the company had a policy and practice of rounding down hours worked
3 to the detriment of employees, which led to Plaintiff and others not being paid for all hours
4 worked. Moreover, to the extent employees such as Plaintiff and others worked through their
5 meal periods, they were not compensated for that time, which would be akin to a minimum wage
6 violation.

7 11. Due to the above “off the clock” violations and as a matter of company policy, KAM
8 violated Labor Code §510 because it failed to pay Plaintiff and other similarly situated aggrieved
9 employees overtime, even though they worked more than 8 hours per day, 12 hours per day,
10 and/or 40 hours per week throughout their employment. Plaintiff’s and others’ actual work hours,
11 which included the “off the clock” work as described above, entitled them to overtime, however,
12 it was not company policy to keep accurate track of all hours worked and to pay employees
13 overtime.

14 12. KAM violated Labor Code § 226.7 along with Industrial Welfare Commission Wage
15 Order no. 5 because it failed to provide Plaintiff and other similarly situated aggrieved employees
16 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their
17 employment. KAM did not completely relieve Plaintiff of all duty during said rest periods.
18 KAM did not pay to Plaintiff one additional hour of pay at Plaintiff’s regular rate of
19 compensation for each workday that one or more statutory rest periods was not provided. Rest
20 breaks were not authorized or enforced at the restaurant. In fact, it was not part of KAM’s culture
21 for employees such as Plaintiff and others to take at least one 10-minute rest break every day
22 wherein they are relieved of all work duties. The latter was due to understaffing of workers and
23 workers being too busy to be able to take rest breaks.

24 13. KAM also violated Labor Code §§ 512 and 226.7 along with Industrial Welfare
25 Commission Wage Order No. 5 because it failed to provide Plaintiff and other similarly
26 situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for every
27 five (5) hours of work throughout their employment, and Plaintiff did not validly waive said
28

1 meal periods. KAM did not completely relieve Plaintiff of all duties during said meal periods.
2 KAM did not pay to Plaintiff one additional hour of pay at Plaintiff's regular rate of
3 compensation for each workday that one or more statutory meal periods was not provided. If
4 KAM had Plaintiff sign a meal period waiver, it would not be valid and enforceable since
5 Plaintiff and others did work more than a 6-hour shift. As such, Plaintiff and others did not
6 always receive statutory, timely, uninterrupted meal periods during their employment and
7 before the 5th hour worked. As was the case with rest periods, meal breaks were definitively
8 not part of KAM's culture. The meal periods were not authorized and were not enforced. In
9 fact, and as it related to meal breaks, Plaintiff was specifically advised that she was only
10 entitled to a meal break if she works 7 hours, which is contrary to California law. Per
11 California law, employees that work a shift of 6 hours or greater are entitled to at least a 30-
12 minute uninterrupted meal break before the 5th hour worked wherein they are relieved of all
13 job duties.

14 14. Furthermore, during the relevant time period, and due to the labor code violations cited
15 above, KAM failed to pay Plaintiff and other similarly situated aggrieved employees all wages
16 due to them within any time period specified by California Labor Code section 204, including
17 the minimum wages and overtime as described above as well as meal/rest break premiums.

18 15. KAM was also in violation of California Labor Code section 226(a) by not providing
19 access to paystubs and failing to include pertinent information on the wage statements,
20 including but not limited to, all hours worked, tips earned, gross wages earned, net wages
21 earned, all deductions, premium payments for meal and rest breaks, the correct legal name and
22 address of the legal employer, the correct beginning and end of the pay period, all applicable
23 hourly rates, and all identifying employee information, among other items. As such, KAM did
24 not provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
25 itemized wage statements.

26 16. KAM violated Labor Code § 203 because it willfully failed to pay Plaintiff and other
27 similarly situated aggrieved employees earned and due wages upon separation of employment,
28

1 either immediately upon involuntary termination, or within 72 hours of resignation. After
2 Plaintiff stopped working at KAM and after Plaintiff's employment with KAM ended, KAM
3 failed and refused to pay all wages earned and due immediately upon separation. These earned
4 but unpaid wages include compensation for all hours worked including minimum wages and
5 overtime compensation, tips, and premiums for the missed meal and rest breaks.

6 17. During the relevant time period, KAM also failed to keep accurate and complete payroll
7 records showing the actual hours worked per day (including the time for meal periods) and the
8 wages paid to Plaintiff and others pursuant to California Labor Code sections 1174(d).

9 18. Furthermore, during her employment, Plaintiff complained to ownership/management
10 about her manager, Betty's, harassing and unlawful conduct. In fact, after complaining to the
11 owner, Defendant LEEZA JAYNE BRAZIER, Plaintiff was told that Betty would be terminated.
12 However, instead, Plaintiff was immediately retaliated against. KAM changed Plaintiff's
13 work schedule and Plaintiff went from working 5-7 days per week to having her schedule cut to
14 one (1) day per week. The latter schedule change was also done to hide the fact that manager
15 Betty had not actually been terminated.

16 19. On or around November 10, 2021, when Plaintiff reported to work (after her schedule
17 had been changed to 1 day per week), one of the other managers, "Hirsham", pinned Plaintiff
18 against the wall, bumped up against her, and threatened to hit her, all the while shouting at her
19 and intimidating her. Not surprisingly, Plaintiff was then terminated from her employment.
20 Plaintiff had of course tried to explain to the owner, Defendant LEEZA JAYNE BRAZIER, the
21 assault and battery that had taken place with "Hirsham", but the owner said she simply did not
22 care. KAM did not care at all about employee complaints regarding workplace safety and
23 harassment judging by how Plaintiff's complaints were dealt with and "investigated". Plaintiff
24 was unequivocally retaliated against and terminated in violation of public policy.

25 ///

26 ///

27 ///

28 ///

FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

(California Industrial Welfare Commission Order 5-2001, California Code of Regulations Title 8 Section 11050, and California Labor Code Section 1198)

(Plaintiff against all named defendants and all DOE defendants)

20. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 19, inclusive, of this Complaint as though fully set forth herein.

21. At all times relevant herein, Defendants were required to compensate their employees for all hours worked upon reporting for work at the appointed time stated by the employer pursuant to Industrial Welfare Commission Order 5-2001, California Code of Regulations, Title 8, Section 11050.

22. For the three (3) years preceding filing of this action, Defendants failed to compensate Plaintiff for all hours worked.

23. Under the aforementioned wage order and regulations, Plaintiff is to recover compensation for all hours worked but not paid by Defendants for the three (3) years preceding the filing of this Complaint.

24. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this Court.

25. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus reasonable attorney's fees and costs of suit.

26. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs which will equal an amount known to Plaintiff once she has obtained all of her payroll records from Defendants.

1 32. For all hours worked by Plaintiff for which she was paid less than the minimum wage
2 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
3 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
4 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
5 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

6 33. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
8 trial.

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO PAY OVERTIME**

11 **(California Industrial Welfare Commission Order 5-2001, California Code of**
12 **Regulations Title 8 Section 11050)**

13 **(Plaintiff against all named defendants and all DOE defendants)**

14 34. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 33, inclusive, of this Complaint as though fully set forth herein.

16 35. Pursuant to Industrial Welfare Commission 4-2001/5-2001, California Code of
17 Regulations, Title 8, Section 11050 for the period of Plaintiff's employment,
18 Defendants were required to compensate Plaintiff for all overtime, which is calculated at one
19 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
20 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
21 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
22 consecutive work day in a week.

23 36. Plaintiff was a non-exempt employee entitled to the protections of the California
24 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations,
25 Title 8, Section 11050.

26 37. Plaintiff worked more than eight (8) hours or twelve (12) hours in a single workday or
27 forty (40) hours in a single workweek on numerous occasions.
28

1 38. Plaintiff was entitled to the above overtime premiums.

2 39. Defendants did not pay Plaintiff premium wages of at least one and one-half times
3 Plaintiff's regular rate of pay for hours worked past eight (8) in a day and two-times Plaintiff's
4 regular rate of pay for hours worked past twelve (12) in a day.

5 40. Defendants did not pay Plaintiff premium wages of at least one and one-half times
6 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

7 41. Plaintiff worked at least one pay period in which she was not properly paid overtime
8 within the three (3) years prior to the initiation of this lawsuit.

9 42. Defendants know or should know the actual dates of overtime worked, the amount of
10 overtime worked, and the amount of unpaid overtime e due.

11 43. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
12 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
13 Court.

14 44. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
15 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the
16 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
17 reasonable attorney's fees and costs of suit.

18 45. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
19 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
20 trial.

21 **FOURTH CAUSE OF ACTION**

22 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

23 **(California Labor Code Section 226)**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 46. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 45, inclusive, of this Complaint as though fully set forth herein.

27 47. Pursuant to California Labor Code Section 226, every employer must furnish each
28

1 employee an itemized statement of wages and deductions at the time of payment of wages.

2 48. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
3 accurately reflected all information required by Labor Code Section 226, including but not
4 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
5 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
6 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
7 Plaintiff in accordance with California Labor Code Section 226(a).

8 49. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
9 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
10 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
11 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
12 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
13 the 3-year period immediately preceding the date this lawsuit was filed.

14 50. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
15 sustained damages, including loss of earnings, in an amount to be established at trial. As a
16 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
17 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
18 and attorney's fees pursuant to statute.

19 51. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
20 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
21 trial.

22 **FIFTH CAUSE OF ACTION**

23 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

24 **(California Labor Code Section 204)**

25 **(Plaintiff against all named defendants and all DOE defendants)**

26 52. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 51, inclusive, of this Complaint as though fully set forth herein.
28

1 53. California Labor Code Section 204 establishes the fundamental right of all employees
2 in the State of California to be paid wages in a timely fashion for their work.

3 54. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
4 full amount of all owed wages when due as required by California Labor Code Section 204.

5 55. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
6 informed, believes, and thereon alleges, that all times relevant during the liability period,
7 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
8 including overtime hours and premium pay for missed rest breaks and meal breaks.

9 56. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
10 amount, subject to proof, to the extent she was not paid all wages each pay period. The precise
11 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
12 from Defendants' records or indirectly based on information from Defendants' records.

13 57. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
14 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
15 trial.

16 **SIXTH CAUSE OF ACTION**

17 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

18 **(California Labor Code Sections 201, 202, 203)**

19 **(Plaintiff against all named defendants and all DOE defendants)**

20 58. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 57, inclusive, of this Complaint as though fully set forth herein.

22 59. Pursuant to California Labor Code Section 201(a), an employer who discharges an
23 employee must immediately pay for all compensation due and owing.

24 60. Pursuant to California Labor Code Section 202, when an employee resigns, the
25 employer must pay all compensation due and owing within 72 hours of resignation, or on the
26 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

27 61. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
28

1 without abatement or reduction, any wages of an employee whose employment ends, the wages
2 of the employee shall continue as a penalty from the due date at the same rate until paid or until
3 an action is commenced; however, the wages shall not continue for more than 30 days for
4 failure to pay an employee owed wages.

5 62. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
6 continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

7 63. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
8 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
9 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
10 preceding the filing of this lawsuit.

11 64. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
12 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
13 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

14 65. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17 **SEVENTH CAUSE OF ACTION**

18 **VIOLATION OF LABOR CODE SECTION 558**

19 **(California Labor Code Section 558)**

20 **(Plaintiff against all named defendants and all DOE defendants)**

21 66. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 65, inclusive, of this Complaint as though fully set forth herein.

23 67. California Labor Code Section 558 states that any person acting on behalf of an
24 employer who violates, or causes to be violated, a section of this chapter or any provision
25 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
26 subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid
27 employee for each pay period for which the employee was underpaid in addition to an amount
28

1 sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one
2 hundred dollars (\$100) for each underpaid employee for each pay period for which the
3 employee was underpaid in addition to an amount sufficient to recover underpaid wages.
4 Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was
5 filed.

6 68. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558. Thus,
7 Defendants are subject to civil penalties under the following laws:

- 8 a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular
9 wages, including overtime wages for overtime hours worked and premium pay for
10 missed meal breaks and rest breaks. As such, Defendants violated Section 558
11 under which penalties are due. Plaintiff therefore prays for penalties of \$50.00 for
12 the first pay period and \$100.00 for each subsequent violation for each pay period
13 for which Plaintiff was underpaid in addition to an amount sufficient to recover
14 underpaid wages.
15
- 16 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
17 relief associated with Plaintiff's prosecution of this cause of action under California
18 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
19 paying Plaintiff for all hours worked, her overtime hours worked, and premium pay
20 for missed meal breaks and rest breaks.
21
- 22 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
23 fees for relief associated with Plaintiff's prosecution of this cause of action under
24 California Labor Code Sections 200, et seq.

25 69. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
26 the statutes, regulations, and wage orders alleged in this cause of action along with any
27 allowable interest, penalties, attorney's fees, and costs according to proof at trial.
28

1 70. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs an
2 attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.

3 **EIGHTH CAUSE OF ACTION**

4 **FAILURE TO MAINTAIN ACCURATE RECORDS**

5 **(California Labor Code Section 1174(d))**

6 **(Plaintiff against all named defendants and all DOE defendants)**

7
8 71. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 70, inclusive, of this Complaint as though fully set forth herein.

10 72. Labor Code section 1174(d) requires that employers, including Defendants, maintain
11 accurate records showing the hours worked daily by its employees and to whom wages were
12 paid.

13 73. Additionally, the "Records" section of the applicable IWC Wage Order obligates the
14 employer, including Defendants, to keep accurate information with respect to each one of their
15 employees including, but not limited to, the total wages paid each payroll period, and time
16 records showing when the employee begins and ends each work period, meal periods, split
17 shift intervals; the total daily hours worked; the total hours worked in the payroll period, and
18 the applicable rates of pay.

19 74. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails
20 to maintain accurate and complete records required by Labor Code section 1174(d) is subject
21 to a penalty. On information and belief, Defendants intentionally failed to maintain accurate
22 records of Plaintiff's total daily hours, including rest breaks and meal breaks, the total hours
23 worked in the payroll period, the applicable rates of pay, and total wages earned for the payroll
24 period.

25 75. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and
26 continues to suffer substantial losses related to Defendants' failure to record and maintain
27 records of meal and rest periods as well as time records.
28

1 76. Plaintiff seeks all available remedies for Defendants' violations including, but not
2 limited penalties, and costs to the extent permitted by law and according to proof at trial.

3 **NINTH CAUSE OF ACTION**

4 **FAILURE TO GIVE REST BREAKS**

5 **(Plaintiff against all named defendants and all DOE defendants)**

6 77. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 76, inclusive, of this Complaint as though fully set forth herein.

8 78. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 9 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which
10 provides that every employer shall authorize and permit all employees to take rest
11 periods, which insofar as practicable shall be in the middle of each work period.
12 The authorized rest period time shall be based on the total hours worked daily at the
13 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
14
15 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which
16 provides that if an employer fails to provide an employee a rest period in
17 accordance with the applicable provisions of this order, the employer shall pay the
18 employee one (1) hour of pay at employee's regular rate of compensation for each
19 workday that the rest period is not provided;
20
21 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which
22 penalizes the employer \$50.00 for each initial violation, per employee, of any
23 provision of the Wage Order, and \$100.00 for each additional violation thereafter
24 per employee; and
25
26 d. California Labor Code section 226.7, which states that (a) no employer shall require
27 any employee to work during any rest period mandated by an applicable order of
28 the Industrial Welfare Commission, and (b) if an employer fails to provide an

1 employee a rest period in accordance with an applicable order of the Industrial
2 Welfare Commission, the employer shall pay the employee one (1) additional hour
3 of pay at employee's regular rate of compensation for each work day that the rest
4 period is not provided.

5 79. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute
6 rest break after every four (4) hours of work or major fraction thereof, as required by California
7 law.

8 80. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
9 regulations, and wage orders alleged in this cause of action along with any allowable interest,
10 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
11 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

12 81. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
13 fees as well as interest under Labor Code section 218.6.

14 82. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

17
18
19 **TENTH CAUSE OF ACTION**

20 **FAILURE TO GIVE MEAL BREAKS**

21 **(Plaintiff against all named defendants and all DOE defendants)**

22 83. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 82, inclusive, of this Complaint as though fully set forth herein.

24 84. Plaintiff brings this cause of action under the following laws, for the following
25 reasons:

- 26
27 a. California Labor Code section 512(a), which requires that employees be given a 30-
28 minute uninterrupted meal break after five (5) hours of work, and a second

uninterrupted meal break after ten (10) hours of work;

- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11050, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage 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;
- d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11050, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as codified under California Code of Regulations Section 11050, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order No. 5) as enforceable law.

1 85. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
2 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
3 to take a second relieved meal break after ten (10) hours of work, as required by California
4 law. California Labor Code section 512(a) and California Industrial Welfare Commission
5 Order No. 5, as codified under California Code of Regulations Section 11050 *et. seq.* requires
6 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,
7 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all
8 work duty. California Labor Code section 226.7 provides that employers may not require their
9 employees to work through their meal periods. California Labor Code section 226.7 and
10 California Code of Regulations section 11050 requires that if the employer fails to provide the
11 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
12 of pay for each work day that the meal period is not given.
13

14 86. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
15 regulations, and wage orders alleged in this cause of action along with any allowable interest,
16 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
17 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
18

19 87. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
20 fees as well as interest under Labor Code section 218.6.

21 88. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
22 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
23 trial.

24 ///

25 ///

26 ///

27 ///

28 ///

ELEVENTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

Representative Claim for PAGA penalties under California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197.1, 1198)

(Against All Named Defendants and all DOE Defendants)

89. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 88, inclusive, of this Complaint as though fully set forth herein.

90. Pursuant to law, Plaintiff provided the required written notice to the LWDA and Defendants of the specific violations of the California Labor Code that Defendants and DOE defendants have violated and continue to violate.

91. Pursuant to California Labor code section 2699.3, no response was received from the LWDA within 65 days of the postmark date of the above-alleged letter.

92. Plaintiff therefore has exhausted all administrative remedies required of her under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants' violations of the Labor Code.

93. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in California Labor Code section 2699.3.

94. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged violator and had one or more of the alleged violations committed against her, and therefore is properly suited to represent the interests of other current and former employees, including all current and former hourly, non-exempt employees who worked for KAM in the State of California during the applicable PAGA Period.

1 95. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
2 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
3 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

4 96. Plaintiff therefore has exhausted all administrative remedies required of her under
5 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
6 cause of action and pursue penalties in a representative action for Defendants' violations of the
7 Labor Code.

8 97. California Labor Code section 2699 et seq. imposes penalties upon culpable
9 Defendants for violating the Labor Code.

10 98. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
11 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
12 seeking individual/victim specific relief or underpaid wages for herself or other employees
13 under this specific PAGA cause of action. Plaintiff has separate causes of action in this
14 Complaint for individual wages but is not seeking wages through the PAGA action.

15 99. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
16 the following:

17 Violations of California Labor Code sections 201, 202, 203, 204, and/or 204b, 210,
18 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197.1, 1198, and
19 any other Labor Codes/Industrial Welfare Commission Order (No. 5) violated based on the
20 facts alleged in this Complaint.

21 100. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's
22 fees, costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
23 employees as alleged herein in an amount to be shown according to proof at trial and within the
24 jurisdictional limits of this Court.

25 ///

26 ///

27 ///

TWELFTH CAUSE OF ACTION

FAILURE TO PROVIDE PERSONNEL RECORDS

(Plaintiff against all named Defendants and all DOE Defendants)

101. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 100, inclusive, of this Complaint as though fully set forth herein.

102. Labor Code section 1198.5 dictates “every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.”

103. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, “the employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times...” On information and belief, Defendants intentionally failed to provide Plaintiff with personnel records when requested by Plaintiff via letter on November 19, 2021, as required by law. Plaintiff requested her personnel records in accordance with California Labor Code section 1198.5(k) on November 19, 2021, via U.S. certified mail, return receipt requested.

104. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her records within 30 days. As a direct result of Defendants’ violations alleged herein, Plaintiff has suffered and continues to suffer substantial losses related to Defendants’ failure to provide personnel records.

105. Plaintiff seeks all available remedies for Defendants’ violations including, but not limited penalties, and costs to the extent permitted by law and according to proof at trial. Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the amount of \$750.00, along with costs and attorney’s fees.

THIRTEENTH CAUSE OF ACTION

FAILURE TO PROVIDE PAY RECORDS

(Plaintiff against all named Defendants and all DOE Defendants)

106. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 105, inclusive, of this Complaint as though fully set forth herein.

2 107. Labor Code section 226 sub-section (b) dictates “an employer...shall afford
3 current and former employees the right to inspect or copy records pertaining to their
4 employment, upon reasonable request to the employer...”

5 108. Moreover, pursuant to sub-section (c) of Labor Code section 226, “an employer
6 who receives a written or oral request to inspect or copy records pursuant to subdivision (b)
7 pertaining to a current or former employee shall comply with the request as soon as practicable,
8 but no later than 21 calendar days from the date of the request.” On information and belief,
9 Defendants intentionally failed to provide Plaintiff with pay records when requested by Plaintiff
10 via certified letter, return receipt requested, on November 19, 2021, and as required by law.
11 Plaintiff requested her pay records in accordance with California Labor Code section 226 on
12 November 19, 2021, via certified mail. Defendants failed to provide Plaintiff with an opportunity
13 to inspect or copy her pay records within 21 days.

14 109. As a direct result of Defendants’ violations alleged herein, Plaintiff has suffered
15 and continues to suffer substantial losses related to Defendants’ failure to provide pay records.
16 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants
17 in the amount of \$750.00, along with costs and attorney’s fees.

18 110. Plaintiff seeks all available remedies for Defendants’ violations including, but
19 not limited penalties, and costs to the extent permitted by law and according to proof at trial.

20 **FOURTEENTH CAUSE OF ACTION**

21 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5**

22 **(Plaintiff against All Named Defendants and DOE Defendants, and each of them)**

23 111. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 110, inclusive, of this Complaint as though fully set forth herein.

25 112. At all times material to this Complaint, California Labor Code § 1102.5 was in
26 effect and binding on Defendants. This section requires Defendants to refrain from retaliating
27 against an employee for disclosing information to a person with authority over the employee if
28

1 the employee has reasonable cause to believe that the information discloses a violation of state
2 or federal statute, or a violation of or noncompliance with a local, state, or federal rule or
3 regulation, regardless of whether disclosing the information is part of the employee's job
4 duties.

5 113. As discussed fully above, Plaintiff complained to Defendants about the
6 harassment that she was experiencing at the workplace.

7 114. KAM retaliated against Plaintiff for her complaints, as alleged above, in
8 violation of Labor Code § 1102.5.

9 115. As a direct and proximate result of the aforementioned acts and omissions of
10 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
11 loss of income (past and future), loss of employment benefits (past and future), general and
12 compensatory damages (past and future), mental pain and anguish and emotional distress (past
13 and future), and will continue to suffer in the future, in an amount to be proved at trial.

14 116. Plaintiff requests all available relief under Labor Code § 1102.5 including
15 damages and the imposition of civil penalties of \$10,000 for each violation as well as
16 attorney's fees.
17
18

19 **FIFTEENTH CAUSE OF ACTION**

20 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

21 **(Against All Named Defendants and all DOE Defendants)**

22 117. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 116, inclusive, of this Complaint as though fully set forth herein.

24 118. At all times during her employment with KAM, Plaintiff performed her
25 duties with the utmost diligence and competence.

26 119. Plaintiff is informed and believes and thereon alleges that Defendants' decisions
27 to retaliate against her, as alleged herein, was motivated by Plaintiff's complaints regarding the
28

1 harassment she experienced at the workplace. Plaintiff is further informed and believes and
2 thereon alleges that any other reasons proffered by Defendants were and are pretextual in
3 nature. Defendants intentionally created the aforementioned retaliation, thereby not giving
4 Plaintiff an opportunity to work in an environment free of harassment and retaliation.

5 120. The employment of Plaintiff was wrongfully terminated in or around
6 November 2021 in violation of the fundamental public policy of the State of California
7 with respect to retaliation against an employee for complaining about workplace harassment.
8 Plaintiff was forced to hire an attorney to assist her to end these illegal activities. Said conduct
9 violated statutory and constitutional expressions of public policy including, but not limited to,
10 California Government Code sections 12940 et seq., and the California Constitution, Article 1
11 section 8.

12 121. As set forth above, said actions by Defendants were wrongful and in violation
13 of the fundamental principles of the public policy of the State of California as reflected in its
14 laws, objectives and policies. Said statutes and constitutional expressions of public policy
15 include, but are not limited to, California Labor Code and the California Constitution, Article 1
16 section 8. These laws inure to the benefit of the public at large, and not just the private interests
17 of the employers and employees whom they govern or protect.

18 122. As a direct and proximate result of the aforementioned acts and omissions of
19 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
20 loss of income (past and future), loss of employment benefits (past and future), general and
21 compensatory damages (past and future), mental pain and anguish and emotional distress (past
22 and future), and will continue to suffer in the future, in an amount to be proved at trial.

23 123. The foregoing conduct engaged in by Defendants and each of their directors,
24 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
25 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
26
27
28

1 an environment free of labor code violations, so as to justify the imposition of punitive
2 damages to punish and set an example of said Defendants.

3 **SIXTEENTH CAUSE OF ACTION**

4 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

5 **(California Business and Professions Code Section 17200)**

6 **(Plaintiff against All Named Defendants and all DOE defendants)**

7 124. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 123, inclusive, of this Complaint as though fully set forth herein.

9 125. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendant
10 constitutes unfair and unlawful business practices under California Business and
11 Professions Code Section 17200, et seq.

12 126. Defendant's violations of California labor laws and the Labor Code, as alleged
13 above constitutes a business practice because it was done repeatedly over a significant period
14 of time in a systematic manner that was detrimental to Plaintiff and other similarly situated
15 aggrieved employees.

16 127. For the four years preceding the filing of this action, Plaintiff has suffered
17 damages and request damages and/or restitution of all monies and profits to be disgorged from
18 Defendant in an amount according to proof at time of trial, but in excess of the jurisdiction of
19 this Court.

20
21 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
22 follows:

- 23 1. For compensatory damages including lost past and future wages, regular wages,
24 overtime, and all other sums of money, including employment benefits, together
25 with interest on said amounts, and any other economic injury to Plaintiff, according to
26 proof;
27 2. For general damages according to proof;
28

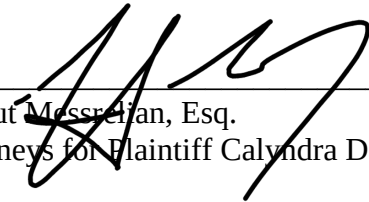
3. For special and consequential damages to Plaintiff in an amount subject to proof at trial;
4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
7. For restitution and disgorgement for all unfair business practices by Defendants against Plaintiff in an amount subject to proof at trial;
8. For an order enjoining Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
11. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative PAGA claim/action;
12. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of attorney's fees, costs, interest, and penalties according to proof to the extent permitted by law;
13. For restitution and/or damages for all amounts unlawfully withheld from the wages of Plaintiff, as may be proven;
14. For the imposition of civil penalties and/or statutory penalties;
15. For all interest as allowed by law;

- 1 16. For all costs and disbursements incurred in this suit;
- 2 17. Reasonable attorney's fees where available by law, including but not limited to,
- 3 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section
- 4 1021.5, the California Labor Code; and/or other applicable laws; and
- 5 18. For such other and further relief as this Court may deem proper.
- 6

7 DATED: April 18, 2022

MESSRELIAN LAW INC.

8

9 By  _____

10 Harout Messrelian, Esq.

11 Attorneys for Plaintiff Calyandra Davis

DEMAND FOR JURY TRIAL

12 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

13

14

15 DATED: April 18, 2022

MESSRELIAN LAW INC.

16

17 By  _____

18 Harout Messrelian, Esq.

19 Attorneys for Plaintiff Calyandra Davis

20

21

22

23

24

25

26

27

28