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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

MICHAEL GREBE, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

MARY ANN'S BAKING CO., INC., a
California corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: 34-2020-00285254-CU-OE-GDS

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194 and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code

§ 226(a) (Non-Compliant Wage Statements);

(7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);

(8) Violation of California Labor Code §§ 2698, *et seq.* (Private Attorneys General Act of 2004);

(9) Violation of California Business & Professions Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiffs MICHAEL GREBE and SILVIA MADRIGAL VARGAS (“Plaintiffs” “Plaintiff Grebe,” and “Plaintiff Vargas”), individually, and on behalf of other members of the general public similarly situated, and allege as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiffs exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendants because, upon information and belief, Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendants maintain offices, have agents, and/or transact business in the State of California, including the County of Sacramento. The majority of the acts and omissions alleged herein relating to Plaintiffs took place in the State of California. Defendants employed Plaintiffs within the State of California, County of Sacramento.

PARTIES

5. Plaintiff Grebe is an individual residing in the State of California, County of Sacramento.

6. Plaintiff Vargas is an individual residing in the State of California, County of Sacramento.

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1 7. Defendant MARY ANN’S BAKING CO., INC., at all times herein mentioned,
2 was and is, upon information and belief, a California corporation, and at all times herein
3 mentioned, was and is, an employer whose employees are engaged throughout the State of
4 California, including the County of Sacramento.

5 8. At all relevant times, Defendant MARY ANN’S BAKING CO., INC. was the
6 “employer” of Plaintiffs within the meaning of all applicable California laws and statutes.

7 9. At all times herein relevant, Defendants MARY ANN’S BAKING CO., INC.
8 and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint
9 employers, representatives, servants, employees, successors-in-interest, co-conspirators and
10 assigns, each of the other, and at all times relevant hereto were acting within the course and
11 scope of their authority as such agents, partners, joint venturers, joint employers,
12 representatives, servants, employees, successors, co-conspirators and assigns, and all acts or
13 omissions alleged herein were duly committed with the ratification, knowledge, permission,
14 encouragement, authorization, and consent of each defendant designated herein.

15 10. The true names and capacities, whether corporate, associate, individual or
16 otherwise, of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs, who sue
17 said defendants by such fictitious names. Plaintiffs are informed and believe, and based on that
18 information and belief allege, that each of the Defendants designated as a DOE is legally
19 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
20 the injuries and damages to Plaintiffs and the other class members as alleged in this Complaint.
21 Plaintiffs will seek leave of court to amend this Complaint to show the true names and
22 capacities when the same have been ascertained.

23 11. Defendants MARY ANN’S BAKING CO., INC., and DOES 1 through 100 will
24 hereinafter collectively be referred to as “Defendants.”

25 12. Plaintiffs further allege that Defendants directly or indirectly controlled or
26 affected the working conditions, wages, working hours, and conditions of employment of
27 Plaintiffs and the other class members so as to make each of said Defendants employers and
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employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

13. Plaintiffs bring this action on their own behalf and on behalf of all other members of the general public similarly situated, and, thus, seek class certification under Code of Civil Procedure section 382.

14. The proposed class is defined as follows:

All non-exempt, hourly individuals who performed work for any amount of time for Defendants as non-exempt, hourly employees, however titled, in California at any time from April 6, 2016 through February 28, 2022.

15. Plaintiffs reserve the right to establish subclasses as appropriate.

16. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiffs at this time. However, the class is estimated to be greater than four hundred (400) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiffs' claims are typical of all other class members' claims as demonstrated herein. Plaintiffs will fairly and adequately protect the interests of the other class members with whom they have a well-defined community of interest.

c. Adequacy: Plaintiffs will fairly and adequately protect the interests of each class member, with whom they have a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiffs have no interest that is antagonistic to the other class members. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing

1 class action discovery, certification, and settlement. Plaintiffs have
2 incurred, and during the pendency of this action will continue to incur,
3 costs and attorneys' fees, that have been, are, and will be necessarily
4 expended for the prosecution of this action for the substantial benefit of
5 each class member.

6 d. Superiority: A class action is superior to other available methods for the
7 fair and efficient adjudication of this litigation because individual joinder
8 of all class members is impractical.

9 e. Public Policy Considerations: Certification of this lawsuit as a class
10 action will advance public policy objectives. Employers of this great
11 state violate employment and labor laws every day. Current employees
12 are often afraid to assert their rights out of fear of direct or indirect
13 retaliation. However, class actions provide the class members who are
14 not named in the complaint anonymity that allows for the vindication of
15 their rights.

16 17. There are common questions of law and fact as to the class members that
17 predominate over questions affecting only individual members. The following common
18 questions of law or fact, among others, exist as to the members of the class:

19 a. Whether Defendants' failure to pay wages, without abatement or
20 reduction, in accordance with the Labor Code, was willful;

21 b. Whether Defendants failed to pay their hourly-paid or non-exempt
22 employees within the State of California for all hours worked, missed
23 meal periods and rest breaks in violation of California law;

24 c. Whether Defendants required Plaintiffs and the other class members to
25 work over eight (8) hours per day and/or over forty (40) hours per week
26 and failed to pay the legally required overtime compensation to Plaintiffs
27 and the other class members;

- 1 d. Whether Defendants properly calculated the regular rates of pay for
2 Plaintiffs and the other class members who worked overtime and earned
3 bonuses and incentive pay;
- 4 e. Whether Defendants properly calculated and paid sick leave pursuant to
5 the methods outlined in the Labor Code section 245 et seq.;
- 6 f. Whether Defendants failed to provide legally mandated emergency sick
7 leave under Families First Coronavirus Response Act: Emergency Paid
8 Sick Leave Act;
- 9 g. Whether Defendants deprived Plaintiffs and the other class members of
10 meal and/or rest periods or required Plaintiffs and the other class
11 members to work during meal and/or rest periods without compensation;
- 12 h. Whether Defendants failed to pay minimum wages to Plaintiffs and the
13 other class members for all hours worked;
- 14 i. Whether Defendants failed to pay all wages due to Plaintiffs and the
15 other class members within the required time upon their discharge or
16 resignation;
- 17 j. Whether Defendants failed to timely pay all wages due to Plaintiffs and
18 the other class members during their employment;
- 19 k. Whether Defendants complied with wage reporting as required by the
20 Labor Code, including, *inter alia*, section 226;
- 21 l. Whether Defendants failed to reimburse class members for necessary
22 business-related expenses and costs;
- 23 m. Whether Defendants' conduct was willful or reckless;
- 24 n. Whether Defendants engaged in unfair business practices in violation of
25 Business & Professions Code section 17200, *et seq.*;
- 26 o. The appropriate amount of damages, restitution, and/or monetary
27 penalties resulting from Defendants' violation of California law; and
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p. Whether Plaintiffs and the other class members are entitled to compensatory damages pursuant to the Labor Code.

GENERAL ALLEGATIONS

18. During the relevant time period set forth herein, Defendants employed Plaintiffs and other persons as hourly-paid or non-exempt employees within the State of California.

19. Defendants, jointly and severally, employed Plaintiff Grebe as an hourly-paid, non-exempt employee from approximately July of 2019 to October of 2019 in the State of California, County of Sacramento.

20. Defendants, jointly and severally, employed Plaintiff Vargas as an hourly-paid, non-exempt employee from approximately 2011 to September of 2020 in the State of California, County of Sacramento.

21. Defendants had the authority to hire and terminate Plaintiffs and the other class members; to set work rules and conditions governing Plaintiffs' and other class members' employment; and to supervise their daily employment activities.

22. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs and other class members' employment for them to be joint employers of Plaintiffs and the other class members.

23. Defendants directly hired and paid wages and benefits to Plaintiffs and the other class members.

24. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

25. Plaintiffs and the other class members worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

26. Plaintiffs are informed and believe, and based thereon allege, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees within the State of California. This scheme involved, *inter alia*, failing to pay them for all hours worked, missed meal periods, and missed rest breaks in violation of

1 California law.

2 27. Plaintiffs are informed and believe, and based thereon allege, that Defendants
3 knew or should have known that Plaintiffs and the other class members were entitled to receive
4 certain wages for overtime compensation and that Plaintiffs and the other class members were
5 not receiving wages for overtime compensation.

6 28. Plaintiffs are informed and believe, and based thereon allege, that Defendants
7 knew or should have known that Plaintiffs and other class members were receiving bonuses
8 and incentive pay that were non-discretionary in nature and that Defendants failed to factor
9 these non-discretionary bonuses and incentive pay into Plaintiffs' and other class members'
10 regular rates of pay for overtime compensation purposes.

11 29. Plaintiffs are informed and believe, and based thereon allege, that Defendants
12 knew or should have known that Plaintiffs and other class members were receiving sick leave
13 pay and that Plaintiffs' and other class members' sick leave pay were not calculated using the
14 methods outlined in the Labor Code.

15 30. Plaintiffs are informed and believe, and based thereon allege, that Defendants
16 denied them and similarly situated employees minimum wages/emergency sick leave pay by
17 refusing to comply with the Families First Coronavirus Response Act: Emergency Paid Sick
18 Leave Act ("EPSLA"). In situations where Defendant's employees, like Plaintiffs, were
19 ordered by their doctor to quarantine after being exposed to Covid-19, or contracted the Covid-
20 19 virus, they were denied federally authorized paid leave in compliance with EPSLA.

21 31. Plaintiffs are informed and believe, and based thereon allege, that Defendants
22 failed to provide Plaintiffs and the other class members the required rest and meal periods
23 during the relevant time period as required under the Industrial Welfare Commission Wage
24 Orders and thus they are entitled to any and all applicable penalties.

25 32. Plaintiffs is informed and believe, and based thereon allege, that Defendants
26 knew or should have known that Plaintiffs and the other class members were entitled to receive
27 all timely and complete meal periods or payment of one additional hour of pay at Plaintiffs'
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1 and the other class members' regular rate of pay when a meal period was missed, late or
2 interrupted, and that Plaintiffs and the other class members did not receive all timely and
3 proper meal periods or payment of one additional hour of pay at their regular rate of pay when
4 a meal period was missed, late, or interrupted.

5 33. Plaintiffs are informed and believe, and based thereon allege, that Defendants
6 knew or should have known that Plaintiffs and other class members were entitled to receive all
7 timely rest periods without interruption or payment of one additional hour of pay at Plaintiffs'
8 and the other class members' regular rate of pay when a rest period was missed, late or
9 interrupted, and that Plaintiffs and the other class members did not receive all rest periods or
10 payment of one additional hour of pay at their regular rate of pay when a rest period was
11 missed, late, or interrupted.

12 34. Plaintiffs are informed and believe, and based thereon allege, that Defendants
13 knew or should have known that Plaintiffs and the other class members were entitled to receive
14 at least minimum wages for compensation and that Plaintiffs and the other class members were
15 not receiving at least minimum wages for all hours worked.

16 35. Plaintiffs are informed and believe, and based thereon allege, that Defendants
17 knew or should have known that Plaintiffs and the other class members were entitled to receive
18 the wages owed to them upon discharge or resignation, including overtime and minimum
19 wages and meal and rest period premiums, and that Plaintiffs and the other class members did
20 not, in fact, receive such wages owed to them at the time of their discharge or resignation.

21 36. Plaintiffs are informed and believe, and based thereon allege, that Defendants
22 knew or should have known that Plaintiffs and the other class members were entitled to receive
23 complete and accurate wage statements in accordance with California law, but, in fact,
24 Plaintiffs and the other class members did not receive complete and accurate wage statements
25 from Defendants. The deficiencies included, *inter alia*, the failure to include the total number
26 of hours worked, gross wages earned, and net wages earned.

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37. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs and the other class members were entitled to reimbursement for necessary business-related expenses and that Plaintiffs and other class members were not reimbursed for incurring business-related expenses.

38. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Defendants had to keep complete and accurate payroll records for Plaintiffs and the other class members in accordance with California law, but, in fact, did not keep complete and accurate payroll records for Plaintiffs and the other class members.

39. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that they had a duty to compensate Plaintiffs and the other class members pursuant to California law, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiffs and the other class members that they were properly denied wages, all to increase Defendants' profits.

40. During the relevant time period set forth herein, Defendants failed to pay overtime wages to Plaintiffs and the other class members for all hours worked. Plaintiffs and other class members were required to work more than eight (8) hours per day and/or forty (40) hours per week without overtime compensation. For instance, on days when Plaintiffs and other class members worked over eight (8) hours, Defendants would move the overtime hours from that day to a separate day of the week where the employee either did not work or worked less than eight (8) hours, thereby allowing Defendants to avoid paying overtime wages.

41. During the relevant time period set forth herein, Defendants failed to factor non-discretionary bonuses and incentive pay into Plaintiffs' and other class members' regular rates of pay for overtime compensation purposes.

42. During the relevant time period set forth herein, Defendants failed to calculate and pay sick leave pursuant to the methods outlined in the Labor Code.

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43. During the relevant time period set forth herein, Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to Plaintiffs and the other class members.

44. During the relevant time period set forth herein, Defendants failed to pay Plaintiffs and the other class members at least minimum wages for all hours worked. This failure to pay minimum wages for all hours worked includes Plaintiffs and other class members being forced to work through their meal and rest breaks and working additional hours off-the-clock pre-shift and post-shift.

45. During the relevant time period set forth herein, Defendants failed to reimburse Plaintiffs and other class members for incurring business-related expenses (*i.e.*, personal cell phone usage for work-related reasons).

46. During the relevant time period set forth herein, Defendants failed to pay Plaintiffs and the other class members the wages owed to them upon discharge or resignation.

47. During the relevant time period set forth herein, Defendants failed to provide complete or accurate wage statements to Plaintiffs and the other class members.

48. During the relevant time period set forth herein, Defendants failed to keep complete or accurate payroll records for Plaintiffs and the other class members.

49. During the relevant time period set forth herein, Defendants failed to properly compensate Plaintiffs and the other class members pursuant to California law to increase Defendants' profits.

Plaintiffs and similarly situated employees were not paid all wages owed, including minimum and overtime wages, meal and rest period premiums, paid sick leave, reimbursement for business expenses, and emergency sick wages pursuant to EPSLA¹ during their employment or any time thereafter.

¹ Pursuant to federal law, violations of EPSLA constitute a violation of Section 6 of the Fair Labor Standard Act ("FLSA"), 29 U.S.C. § 206. See 29 C.F.R. 826.150(b)(1). Violations of the FLSA, serve as a proper basis for a claim under Business & Professions Code section 17200 et seq, under California law and is not preempted by federal class action rules. *See Harris v. Investor's Bus. Daily, Inc.*, 138 Cal.App.4th 28, 36 (2006).

1 56. During the relevant time period set forth herein, Plaintiffs and the other class
2 members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a
3 week. Plaintiffs and other class members were not exempt from overtime protections
4 employees under the Wage Orders and Labor Code.

5 57. During the relevant time period set forth herein, Defendants intentionally and
6 willfully failed to pay overtime wages owed to Plaintiffs and the other class members.

7 58. Defendants' failure to pay Plaintiffs and the other class members the unpaid
8 balance of overtime compensation, as required by California laws, violates the provisions of
9 Labor Code sections 510 and 1198, and is, therefore, unlawful.

10 59. Pursuant to Labor Code section 1194, Plaintiffs and the other class members are
11 entitled to recover unpaid overtime compensation, interest, costs, and attorneys' fees.

12 **SECOND CAUSE OF ACTION**

13 **(Violation of California Labor Code §§ 226.7 and 512(a))**

14 **(Against MARY ANN'S BAKING CO., INC. and DOES 1 through 100)**

15 60. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
16 through 59, and each and every part thereof with the same force and effect as though fully set
17 forth herein.

18 61. During the relevant time period set forth herein, the IWC Order and Labor Code
19 sections 226.7 and 512(a) were applicable to Plaintiffs' and the other class members'
20 employment by Defendants.

21 62. During the relevant time period set forth herein, Labor Code section 226.7
22 provides that no employer shall require an employee to work during any meal or rest period
23 mandated by an applicable order of the IWC.

24 63. During the relevant time period set forth herein, the applicable IWC Wage
25 Order and Labor Code section 512(a) provide that an employer may not require, cause or
26 permit an employee to work for a work period of more than five (5) hours per day without
27 providing the employee with a meal period of not less than thirty (30) minutes, except that if
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1 the total work period per day of the employee is no more than six (6) hours, the meal period
2 may be waived by mutual consent of both the employer and employee.

3 64. During the relevant time period set forth herein, the applicable IWC Wage
4 Order and Labor Code section 512(a) further provide that an employer may not require, cause,
5 or permit an employee to work for a work period of more than ten (10) hours per day without
6 providing the employee with a second uninterrupted meal period of not less than thirty (30)
7 minutes, except that if the total hours worked is no more than twelve (12) hours, the second
8 meal period may be waived by mutual consent of the employer and the employee only if the
9 first meal period was not waived.

10 65. During the relevant time period set forth herein, Plaintiffs and the other class
11 members who were scheduled to work for a period of time no longer than six (6) hours, and
12 who did not waive their legally-mandated meal periods by mutual consent, were required to
13 work for periods longer than five (5) hours without an uninterrupted meal period of not less
14 than thirty (30) minutes and/or without a rest period.

15 66. During the relevant time period set forth herein, Plaintiffs and the other class
16 members who were scheduled to work for a period of time no longer than twelve (12) hours,
17 and who did not waive their legally-mandated meal periods by mutual consent, were required
18 to work for periods longer than ten (10) hours without an uninterrupted meal period of not less
19 than thirty (30) minutes and/or without a rest period.

20 67. During the relevant time period set forth herein, Plaintiffs and the other class
21 members who were scheduled to work for a period of time in excess of six (6) hours were
22 required to work for periods longer than five (5) hours without an uninterrupted meal period of
23 not less than thirty (30) minutes and/or without a rest period.

24 68. During the relevant time period set forth herein, Plaintiffs and the other class
25 members who were scheduled to work for a period of time in excess of twelve (12) hours were
26 required to work for periods longer than ten (10) hours without an uninterrupted meal period of
27 not less than thirty (30) minutes and/or without a rest period.

69. During the relevant time period set forth herein, Defendants intentionally and willfully required Plaintiffs and the other class members to work during meal periods and failed to compensate Plaintiffs and the other class members the meal period premium for work performed during meal periods.

70. During the relevant time period set forth herein, Defendants failed to pay Plaintiffs and the other class members the meal period premium due pursuant to Labor Code section 226.7.

71. Defendants' conduct violates applicable IWC Wage Order and Labor Code sections 226.7 and 512(a).

72. Pursuant to the applicable IWC Wage Order and Labor Code section 226.7(b), Plaintiffs and the other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against MARY ANN'S BAKING CO., INC. and DOES 1 through 100)

73. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 72, and each and every part thereof with the same force and effect as though fully set forth herein.

74. During the relevant time period set forth herein, the applicable IWC Wage Order and Labor Code section 226.7 were applicable to Plaintiffs' and the other class members' employment by Defendants.

75. During the relevant time period set forth herein, Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the IWC.

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1 76. During the relevant time period set forth herein, the applicable IWC Wage
2 Order provides that “[e]very employer shall authorize and permit all employees to take rest
3 periods, which insofar as practicable shall be in the middle of each work period” and that the
4 “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes
5 net rest time per four (4) hours or major fraction thereof” unless the total daily work time is
6 less than three and one-half (3 ½) hours.

7 77. During the relevant time period set forth herein, Defendants required Plaintiffs
8 and the other class members to work four (4) or more hours without authorizing or permitting a
9 ten (10) minute rest period per each four (4) hour period worked.

10 78. During the relevant time period set forth herein, Defendants willfully required
11 Plaintiffs and the other class members to work during rest periods and failed to pay Plaintiffs
12 and the other class members the rest period premium for work performed during rest periods.

13 79. During the relevant time period set forth herein, Defendants failed to pay
14 Plaintiffs and the other class members the rest period premium due pursuant to Labor Code
15 section 226.7.

16 80. Defendants’ conduct violates applicable IWC Wage Orders and Labor Code
17 section 226.7.

18 81. Pursuant to the applicable IWC Wage Orders and Labor Code section 226.7(b),
19 Plaintiffs and the other class members are entitled to recover from Defendants one additional
20 hour of pay at the employees’ regular hourly rate of compensation for each workday that the
21 rest period was not provided.

22 **FOURTH CAUSE OF ACTION**

23 **(Violation of California Labor Code §§ 1194 and 1197)**

24 **(Against MARY ANN’S BAKING CO., INC. and DOES 1 through 100)**

25 82. Plaintiffs incorporate by reference the allegations contained in paragraphs 1
26 through 81 and each and every part thereof with the same force and effect as though fully set
27 forth herein.

83. During the relevant time period set forth herein, Labor Code sections 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed, is unlawful.

84. During the relevant time period set forth herein, Defendants failed to pay minimum wages to Plaintiffs and the other class members as required, pursuant to Labor Code sections 1194 and 1197.

85. Defendants' failure to pay Plaintiffs and the other class members the minimum wage as required violates Labor Code sections 1194 and 1197. Pursuant to those sections, Plaintiffs and other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

86. Pursuant to Labor Code section 1194.2, Plaintiffs and the other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201 and 202)

(Against MARY ANN'S BAKING CO., INC. and DOES 1 through 100)

87. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 86, and each and every part thereof with the same force and effect as though fully set forth herein.

88. Labor Code section 201 provides that an employer must pay an employee who is terminated all unpaid wages immediately upon termination.

89. Labor Code section 202 provides that an employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation.

90. During the relevant time period set forth herein, Defendants intentionally and willfully failed to pay Plaintiffs and the other class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving

Defendants' employment. These unpaid wages included minimum and overtime wages, meal and rest period premiums, and sick leave pay.

91. Defendants' failure to pay Plaintiffs and the other class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employment, is in violation of Labor Code sections 201 and 202.

92. Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced. However, the unpaid wages shall not continue for more than thirty (30) days.

93. Defendants knew of their obligation to pay Plaintiffs and other class members their final wages when their employment terminated. Defendants had knowledge that Plaintiffs and other class members were not paid for all regular and overtime hours, as they authorized the practices and policies denying these wages. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages owed.

94. Plaintiffs and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum as provided by Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against MARY ANN'S BAKING CO., INC. and DOES 1 through 100)

95. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 94, and each and every part thereof with the same force and effect as though fully set forth herein.

96. During the relevant time period set forth herein, Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing: (a) gross wages earned; (b) total hours worked by the employee;

(c) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (d) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (e) net wages earned; (f) the inclusive dates of the period for which the employee is paid; (g) the name of the employee and his or her social security number; (h) the name and address of the legal entity that is the employer; and (i) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

97. Defendants have intentionally and willfully failed to provide Plaintiffs and the other class members with complete and accurate wage statements. The deficiencies include but are not limited to: the failure to include the total number of hours worked by Plaintiffs and other class members, the gross wages earned by Plaintiffs and other class members, and the net wages earned by Plaintiffs and other class members. Specifically, Defendants did not accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime, and double time hours worked along with the corresponding rates of pay, and gross and net wages earned. The paystubs did not accurately itemize Plaintiffs' and other class members' total hours worked due to Defendants failing to pay minimum and overtime wages

98. As a result of Defendants' violation of Labor Code section 226(a), Plaintiffs and the other class members have suffered injury and damage to their statutorily protected rights.

99. More specifically, Plaintiffs and the other class members have been injured by Defendants' intentional and willful violation of Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to Labor Code section 226(a).

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1 forth herein.

2 106. The Private Attorneys General Act of 2004 (“PAGA”) expressly establishes that
3 any provision of the Labor Code which provides for a civil penalty to be assessed and collected
4 by the California Labor and Workforce Development Agency (“LWDA”), or any of its
5 departments, divisions, commissions, boards, agencies or employees for a violation of the
6 Labor Code, may be recovered through a civil action brought by an aggrieved employee on
7 behalf of himself or herself, and other current or former employees.

8 107. On August 3, 2020, Plaintiff Grebe provided written notice to the LWDA and
9 Defendants of the specific provisions of the Labor Code he contends were violated, and the
10 theories supporting his contentions. Attached hereto as **Exhibit 1** and incorporated by
11 reference is a copy of the August 3, 2020 written notice to the LWDA. Plaintiff Grebe believes
12 that on or about October 7, 2020, the sixty-five (65) day notice period expired as to all
13 Defendants, and the LWDA did not take any action to investigate or prosecute this matter.
14 Furthermore, on July 19, 2021, Plaintiff Grebe provided an amended written notice to the
15 LWDA and Defendants of the specific provisions of the Labor Code he contends were
16 violated, and the theories supporting his contentions. Attached hereto as **Exhibit 2** and
17 incorporated by reference is a copy of the July 19, 2021 written notice to the LWDA Plaintiff
18 Grebe believes that on September 22, 2021, the sixty-five (65) day notice period expired as to
19 all Defendants, and the LWDA did not take any action to investigate or prosecute this matter.
20 Therefore, Plaintiff Grebe has exhausted the statutory time period to bring this action.

21 96. Plaintiff Grebe and other hourly-paid or non-exempt employees are “aggrieved
22 employees” as defined by Labor Code section 2699(c) in that they are all non-exempt, hourly
23 individuals who performed work for any amount of time for Defendants as non-exempt, hourly
24 employees, however titled, in California, at any time from April 6, 2019 through February 28,
25 2022, and one or more of the alleged violations was committed against them.

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98. As a policy and practice, Defendants failed to compensate Plaintiff Grebe and the other aggrieved current and former employees for all hours worked, resulting in a failure to pay all minimum wages and overtime wages, where applicable.

100. As a policy and practice, Defendants failed to provide Plaintiff Grebe and the other aggrieved current and former employees with legally-mandated meal periods and rest breaks and failed to pay proper compensation for this failure.

102. As a policy and practice, Defendants failed to pay Plaintiff Grebe and the other aggrieved current and former employees all wages due and owing them within the required time period.

103. At all times relevant herein, Defendants were required to pay their employees all wages owed in a timely fashion at the end of employment pursuant to Labor Code sections 201 to 204.

23

1 104. As a result of Defendants' Labor Code violations alleged above, Defendants
2 failed to pay Plaintiff Grebe and the other aggrieved former employees their final wages pursuant
3 to Labor Code sections 201 to 204 and accordingly owe waiting time penalties pursuant to Labor
4 Code section 203.

5 **Failure to Provide Complete and Accurate Wage Statements**

6 105. At all times relevant herein, Defendants were required to keep accurate records
7 regarding their California employees pursuant to the mandate of Labor Code sections 226 and
8 1174.

9 106. As a result of Defendants' various Labor Code violations, Defendants failed to
10 keep accurate records regarding Plaintiff Grebe and the other aggrieved current and former
11 employees. For example, Defendants failed in their affirmative obligation to keep accurate
12 records regarding Plaintiff Grebe's and the other aggrieved current and former employees' gross
13 wages earned, total hours worked, all deductions, net wages earned, and all applicable hourly
14 rates and the number of hours worked at each hourly rate.

15 **Failure to Reimburse Business Expenses**

16 107. At all times relevant herein, Defendants were required to reimburse their
17 employees for any and all necessary expenditures or losses incurred by the employees in direct
18 consequences of the discharge or his or her duties pursuant to the mandate of Labor Code
19 sections 2800 and 2802.

20 108. As a policy and practice, Defendants failed to reimburse Plaintiff Grebe and the
21 other aggrieved current and former employees for all business expenses incurred and owing them
22 within the required time period.

23 **Failure to Pay Sick Leave Pay**

24 109. Labor Code section 245 et seq. pertains to sick leave under the Healthy
25 Workplaces, Healthy Families Act of 2014. Labor Code section 246(1) allows an employer to
26 calculate paid sick leave for non-exempt employees using two (2) methods. Per section 246(1),
27 Defendants may pay sick leave either in the same manner as the regular rate of pay for the
28

workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek, or 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. Lab. Code § 246(1)(1)-(2).

110. As a policy and practice, Defendants failed to properly calculate and pay sick leave to Plaintiff Grebe and other aggrieved current and former employees pursuant to the methods outlined in Labor Code section 246(1).

Penalties

111. Pursuant to Labor Code section 2699, Plaintiff Grebe, individually, and on behalf of other current and former aggrieved employees, requests and is entitled to recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs, including but not limited to:

- a. Penalties under Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under Code of Regulations Title 8 section 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- d. Penalties under Labor Code section 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial

violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;

e. Any and all additional penalties as provided by the Labor Code and/or other statutes; and

f. Attorneys' fees and costs pursuant to Labor Code sections 210, 1194, and 2699, and any other applicable statute.

NINTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, *et seq.*)

(Against MARY ANN'S BAKING CO., INC. and DOES 1 through 100)

110. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 109, and each and every part thereof with the same force and effect as though fully set forth herein.

111. Defendants' conduct, as alleged herein, has been, and continues to be unfair, unlawful and harmful to Plaintiffs, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiffs seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

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

113. A violation of Business & Professions Code sections 17200, *et seq.* may be predicated on the violation of any state or federal law. In this instant case, Defendants' policy and practice of requiring Plaintiffs and the other class members work overtime hours without paying them proper compensation violate Labor Code sections 510 and 1198. Additionally, Defendants' policy and practice of requiring Plaintiffs and the other class members, to work through their meal and rest periods without paying them proper compensation violate Labor Code sections 226.7 and 512(a). Moreover, Defendants' policy and practice of failing to timely pay wages to Plaintiffs and the other class members violate Labor Code sections 201 and 202.

Defendants also violated Labor Code sections 226(a), 245, *et seq.*, 1194, 1197, 2800 and 2802.

114. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

115. Plaintiffs and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

116. Pursuant to Business & Professions Code sections 17200, *et seq.*, Plaintiffs and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this Complaint; an award of attorneys' fees pursuant to Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

DEMAND FOR JURY TRIAL

Plaintiffs, individually, and on behalf of other members of the general public similarly situated, requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all other members of the general public similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiffs be appointed as representatives of the Class;
3. That counsel for Plaintiffs be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current contact information (address, email, and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge, and decree that Defendants violated Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all

overtime wages due to Plaintiffs and the other class members;

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

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194; and

9. For such other and further relief as the court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge, and decree that Defendants violated Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiffs and the other class members;

11. That the Court make an award to Plaintiffs and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to Labor Code section 226.7(b);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

16. For such other and further relief as the court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge, and decree that Defendants violated Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiffs and the other class members;

18. That the Court make an award to Plaintiffs and the other class members of one

(1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

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

20. For premium wages pursuant to Labor Code section 226.7(b);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

22. For such other and further relief as the court may deem just and proper.

As to the Fourth Cause of Action

23. That the Court declare, adjudge, and decree that Defendants violated Labor Code sections 1194 and 1197 by willfully failing to pay minimum wages to Plaintiffs and the other class members;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to Labor Code section 1194(a);

27. For liquidated damages pursuant to Labor Code section 1194.2; and

28. For such other and further relief as the court may deem just and proper.

As to the Fifth Cause of Action

29. That the Court declare, adjudge, and decree that Defendants violated Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiffs and other class members no longer employed by Defendants;

30. For all actual, consequential, and incidental losses and damages, according to proof;

31. For statutory wage penalties pursuant to Labor Code section 203 for the other class members who have left Defendants' employ;

32. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

33. For such other and further relief as the court may deem just and proper.

As to the Sixth Cause of Action

34. That the Court declare, adjudge, and decree that Defendants violated the record keeping provisions of Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

35. For actual, consequential, and incidental losses and damages, according to proof;

36. For statutory penalties pursuant to Labor Code section 226(e);

37. For injunctive relief to ensure compliance with this section, pursuant to Labor Code section 226(g); and

38. For such other and further relief as the court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge, and decree that Defendants violated Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiffs and the other class members for all necessary business-related expenses as required by Labor Code sections 2800 and 2802;

40. For actual, consequential, and incidental losses and damages, according to proof;

41. For the imposition of civil penalties and/or statutory penalties;

42. For punitive damages and/or exemplary damages according to proof at trial;

43. For reasonable attorneys' fees and costs of suit incurred herein; and

44. For such other and further relief as the court may deem just and proper.

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47. For such other and further relief as the Court may deem just and proper.

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1 53. For such other and further relief as the court may deem just and proper.

2
3 Dated: May 11, 2022

JUSTICE LAW CORPORATION

4
5 By: Haig Hogdanian

6 Douglas Han

7 Shunt Tatavos-Gharajeh

8 Phillip Song

9 Haig Hogdanian

10 Attorneys for Plaintiff Michael Grebe

11
12
13
14 Dated: May 11, 2022

SHIMODA & RODRIGUEZ LAW, PC

15 By: /s/ Justin P. Rodriguez

16 Galen T. Shimoda

17 Justin P. Rodriguez

18 Attorneys for Plaintiff Silvia Madrigal Varga

EXHIBIT 1

August 3, 2020

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

RE: MARY ANN'S BAKING CO., INC.

Dear Representative:

We have been retained to represent Micheal Grebe against Mary Ann's Baking Co., Inc. (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "MABC").

Mr. Grebe is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Grebe may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Mary Ann's Baking Co., Inc. is a California corporation located at 8371 Carbide Court, Sacramento, California 95828.

MABC employed Mr. Grebe as an hourly-paid non-exempt Mixer within one year of the date of this letter (until in or about October of 2019) in the State of California. MABC directly controlled the wages, hours and working conditions of Mr. Grebe's employment.

The "aggrieved employees" that Mr. Grebe may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies or labor contractors) of MABC within the State of California.

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¹ Mr. Grebe does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Grebe will amend this notice when the true names and capacities are known. Mr. Grebe is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Grebe and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

MABC failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Grebe has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at MABC, regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

MABC has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. Grebe and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. MABC failed to compensate Mr. Grebe and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, donning and doffing uniforms and during meal breaks. MABC also failed to include non-discretionary bonuses and incentives in Mr. Grebe and other aggrieved employees' regular rate of pay for purposes of overtime compensation. Moreover, MABC maintained an illegal rounding policy that negatively affected aggrieved employees' time and pay. Therefore, Mr. Grebe and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, MABC routinely required Mr. Grebe and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with MABC policies and expectations, and meet production goals. Aggrieved employees were also prevented from taking meal and rest breaks due to a lack of relief on machines and the production line, and the continuous operations MABC runs. MABC further required aggrieved employees to don and doff uniforms and sanitize during their meal and rest breaks, depriving them off full and off-duty breaks. Moreover, MABC failed to authorize and permit Mr. Grebe and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, MABC failed to compensate Mr. Grebe and other aggrieved employees all the premium wages they were owed.

California Labor Code section 201 requires that if 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 requires that if 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, MABC failed to pay Mr. Grebe and other aggrieved employees all wages, including for uncompensated off-the-clock work and premium wages for failing to provide legally mandated meal and rest breaks as explained above, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, MABC failed to pay Mr. Grebe and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work and premium wages as explained above, within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, MABC did not provide Mr. Grebe and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from MABC were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Grebe and other aggrieved employees, (2) total hours worked by Mr. Grebe and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Grebe and other aggrieved employees (4) all deductions for Mr. Grebe and other aggrieved employees, (5) net wages earned by Mr. Grebe and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Grebe and other aggrieved employees are paid, (7) the name of the aggrieved 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 Mr. Grebe and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Grebe and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, MABC failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. Grebe and other aggrieved employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, MABC did not provide Mr. Grebe and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by MABC, including for purchasing sanitation gear they were requiring to wear while working.

We believe that Mr. Grebe and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

LWDA
August 3, 2020
Page 6 of 6

Mr. Grebe will seek these penalties and wages on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of MABC within one year of the date of this letter, as allowed by law.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read "D. Han", written over a horizontal line.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

George A. Demas
c/o Mary Ann's Baking Co., Inc.
8371 Carbide Court
Sacramento, California 95828
Agent for Service of Process for Mary Ann's Baking Co., Inc.

EXHIBIT 2

July 19, 2021

PAGA NUMBER (LWDA – CM): 801116-20

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

RE: MARY ANN'S BAKING CO., INC.

Dear Representative:

We hereby amend our August 3, 2020 letter sent to your office in compliance with the reporting requirements of California Labor Code section 2699.3, to identify the DOE defendants.¹ A true and correct copy of the August 3, 2020 letter is attached to this submission as **Exhibit A** for reference. DOE 1 is George Demas, DOE 2 is John Demas, and DOE 3 is Andy Demas. DOES 1-3 are employers or other persons acting on behalf of an employer, and may be held liable as such, pursuant to California Labor Code section 558.1.

We have been retained to represent Micheal Grebe against Mary Ann's Baking Co., Inc., George Demas, John Demas, and Andy Demas, (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 4-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20² for violations of California wage-and-hour laws (hereinafter collectively referred to as "MABC").

Mr. Grebe is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Grebe may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

¹ This letter identifying George Demas, John Demas, and Andy Demas as DOE 1, DOE 2, and DOE 3, respectively, as employers or persons acting on behalf of an employer arises from the same general set of facts and relates back to the entity named originally in the August 3, 2020 letter.

² Mr. Grebe does not know the true names or capacities, whether individual, partner or corporate, of DOES 4 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Grebe will amend this notice when the true names and capacities are known. Mr. Grebe is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Grebe and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

LWDA
July 19, 2021
Page 2 of 2

Mary Ann's Baking Co., Inc. is a California corporation located at 8371 Carbide Court, Sacramento, California 95828. George Demas is the Chief Executive Officer of Mary Ann's Baking Co., Inc. John Demas is the Secretary of Mary Ann's Baking Co., Inc. Andy Demas is the Chief Operating Officer of Mary Ann's Baking Co., Inc.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read "D. Han", with a stylized flourish at the end.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

George A. Demas
c/o Mary Ann's Baking Co., Inc.
8371 Carbide Court
Sacramento, California 95828
Agent for Service of Process for Mary Ann's Baking Co., Inc.

John Demas
c/o Mary Ann's Baking Co., Inc.
8371 Carbide Court
Sacramento, California 95828

Andy Demas
c/o Mary Ann's Baking Co., Inc.
8371 Carbide Court
Sacramento, California 95828

CC: (By Electronic Mail Only):

Sophia S. Kwan
skwan@seyfarth.com
Dan Newland
dnewland@seyfarth.com
Counsel of Record for Mary Ann's Baking Co., Inc.

EXHIBIT A

August 3, 2020

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

RE: MARY ANN'S BAKING CO., INC.

Dear Representative:

We have been retained to represent Micheal Grebe against Mary Ann's Baking Co., Inc. (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20¹ for violations of California wage-and-hour laws (hereinafter collectively referred to as "MABC").

Mr. Grebe is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Grebe may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Mary Ann's Baking Co., Inc. is a California corporation located at 8371 Carbide Court, Sacramento, California 95828.

MABC employed Mr. Grebe as an hourly-paid non-exempt Mixer within one year of the date of this letter (until in or about October of 2019) in the State of California. MABC directly controlled the wages, hours and working conditions of Mr. Grebe's employment.

The "aggrieved employees" that Mr. Grebe may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through staffing agencies or labor contractors) of MABC within the State of California.

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¹ Mr. Grebe does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. Grebe will amend this notice when the true names and capacities are known. Mr. Grebe is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. Grebe and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

MABC failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Grebe has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at MABC, regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

MABC has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. Grebe and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. MABC failed to compensate Mr. Grebe and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, donning and doffing uniforms and during meal breaks. MABC also failed to include non-discretionary bonuses and incentives in Mr. Grebe and other aggrieved employees' regular rate of pay for purposes of overtime compensation. Moreover, MABC maintained an illegal rounding policy that negatively affected aggrieved employees' time and pay. Therefore, Mr. Grebe and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, MABC routinely required Mr. Grebe and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with MABC policies and expectations, and meet production goals. Aggrieved employees were also prevented from taking meal and rest breaks due to a lack of relief on machines and the production line, and the continuous operations MABC runs. MABC further required aggrieved employees to don and doff uniforms and sanitize during their meal and rest breaks, depriving them off full and off-duty breaks. Moreover, MABC failed to authorize and permit Mr. Grebe and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, MABC failed to compensate Mr. Grebe and other aggrieved employees all the premium wages they were owed.

California Labor Code section 201 requires that if 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 requires that if 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, MABC failed to pay Mr. Grebe and other aggrieved employees all wages, including for uncompensated off-the-clock work and premium wages for failing to provide legally mandated meal and rest breaks as explained above, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, MABC failed to pay Mr. Grebe and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work and premium wages as explained above, within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, MABC did not provide Mr. Grebe and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from MABC were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Grebe and other aggrieved employees, (2) total hours worked by Mr. Grebe and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Grebe and other aggrieved employees (4) all deductions for Mr. Grebe and other aggrieved employees, (5) net wages earned by Mr. Grebe and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Grebe and other aggrieved employees are paid, (7) the name of the aggrieved 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 Mr. Grebe and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Grebe and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, MABC failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. Grebe and other aggrieved employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, MABC did not provide Mr. Grebe and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by MABC, including for purchasing sanitation gear they were requiring to wear while working.

We believe that Mr. Grebe and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties and wages as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

LWDA
August 3, 2020
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Mr. Grebe will seek these penalties and wages on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of MABC within one year of the date of this letter, as allowed by law.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read "D. Han", written over a horizontal line.

Douglas Han, Esq.

CC: (By Certified U.S. Mail Only):

George A. Demas
c/o Mary Ann's Baking Co., Inc.
8371 Carbide Court
Sacramento, California 95828
Agent for Service of Process for Mary Ann's Baking Co., Inc.

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On May 12, 2022, I served the foregoing document described as

FIRST AMENDED CLASS ACTION COMPLAINT FOR DAMAGES

for the following case: **Grebe v. Mary Ann's Baking Co., Inc.**
LWDA/Court Case No.: **LWDA-CM-852055-21**
34-2020-00285254-CU-OE-GDS
Sacramento County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 12, 2022, at Pasadena, California.


Mariah Anderson