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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

DOMINGO MURCHISON, individually and
on behalf of all current and former similarly
situated employees in the State of California

Plaintiff,

vs.

MVP EVENT PRODUCTIONS, LLC, a
California Limited Liability Company dba
MVP EVENT STAFFING; GREGORY
FIELDING, an individual; LEGENDS
HOSPITALITY, LLC, a Delaware Limited
Liability Company (previously designated by
the fictitious name of "DOE 1"; and DOES 2
to 50,

Defendants.

CASE NO.: 30-2021-01234789-CU-OE-CXC

[Assigned for All Purposes to William D.
Claster, Dept. CX101]

**NOTICE OF MOTION AND MOTION
FOR LEAVE TO FILE A COMPLAINT IN
INTERVENTION AND LEAVE TO
PERMIT CLASS MEMBER SCOTT
SHUSTER TO INTERVENE PURSUANT
TO C.C.P. § 387**

*[Declarations of Dennis F. Moss and Scott
Shuster; Request for Judicial Notice; and
[Proposed] Order filed concurrently herewith]*

Location: Dept. CX101

Date: August 15, 2025

Time: 9:00 a.m.

Reservation Number 74612554

1 **NOTICE OF MOTION**

2 PLEASE TAKE NOTICE that on August 15, 2025 or as soon thereafter as the matter may be
3 heard in Department CX101 of the above-referenced court, located at 751 W. Santa Ana Blvd., Santa
4 Ana, California 92701, Scott Shuster (hereinafter, the “Intervenor”), will and hereby does, move,
5 pursuant to California law, including section 387 of the Code of Civil Procedure, for leave to file a
6 complaint in intervention in this action.

7 This motion is made on the grounds that: Intervenor has the right to intervene as a matter of
8 law in that he is a member of the putative settlement class in this matter; Intervenor has an interest in
9 the subject of this action and this Court’s potential approval of a class settlement reached between
10 Plaintiff and Defendant that may impair the Intervenor’s ability to protect the interests of the putative
11 class members; and on the ground that the class members’ interests are not being adequately
12 represented by Plaintiffs nor are Plaintiffs able to represent those interests.

13 This motion is based on this notice of motion, the attached memorandum of points and
14 authorities, and the declaration of Dennis F. Moss and Proposed Order filed concurrently herewith,
15 the records and files herein, and upon other such evidence as may be considered at the hearing on this
16 motion.

17 Dated: July 18, 2025

MOSS BOLLINGER LLP

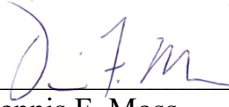
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19 By: 
20 Dennis F. Moss
21 Attorneys for Intervenor Scott Shuster
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Non-party class member Scott Shuster (“Intervenor” or “Shuster”) seeks leave to intervene
4 and file the Complaint in Intervention attached hereto as **Exhibit 1**.

5 Intervention should be granted. The Complaint in Intervention does not add new claims to
6 these proceedings, Intervenor is a member of the proposed class, and his proposed claims overlap
7 with the existing class claims that are alleged in Plaintiff’s Proposed Fourth Amended Complaint.
8 Absent intervention, Intervenor’s claims will be wiped out for the period contemplated by the
9 Settlement from April 21, 2021 through April 28, 2025 on account of a completely unwarranted and
10 unsupported discounting of class claims. Not only does the unwarranted Settlement in this case
11 threaten to wipe out Intervenor’s claims in *Shuster v. Legends Hospitality, LLP*, LA Superior Court
12 Case No. 22STCV32193 (“*Shuster*”), it threatens to wipe out claims in *Martinez v. Legends*
13 *Hospitality, LLC*, Orange County Superior Court Case No. 30-2024-01380394-CU-OE-CXC, and
14 *Crook v. Legends Hospitality, LLC et al.*, LA Superior Court Case No. 23STCV24567.

15 In addition to providing inadequate relief, there are several additional fatal flaws which doom
16 the proposed Settlement and warrant intervention. First, it is apparent from the Declaration of Natalie
17 Mirzayan in Support of Preliminary Approval (“Mirzayan PA Dec.”), and from prior filings and Court
18 orders in this case, that Plaintiff¹ failed to conduct a thorough enough investigation to properly assess
19 the value of the claims he seeks to dispose of. Plaintiff failed to provide the Court with necessary
20 information upon which the Court could fulfill its obligations in the approval process to assess the
21 value of the claims. Moreover, the Settlement has an inequitable mechanism for distributing the
22 limited settlement funds to the detriment of the putative class members with the stronger claims.

23 **II. BACKGROUND**

24 **A. Intervenor’s PAGA Claim and Lawsuit**

25 Defendant Legends Hospitality, LLC (“Defendant”) is in the hospitality industry providing,
26

27
28 ¹ “Plaintiff” is used in lieu of “Plaintiffs” at times herein because, as of this date, the Fourth Amended
Complaint provided for in the Settlement adding Davina Bhullar as a Plaintiff has not been filed.

1 among other things, food and beverage services at stadiums, arenas, amphitheaters and similar
2 entertainment venues throughout the United States, including in Northern and Southern California.
3 In California, it has provided these services at no less than nine stadium concert and arena venues.
4 Declaration of Dennis Moss (“Moss Decl.”) ¶ 18. Intervenor Scott Shuster has been intermittently
5 employed by Legends at events in Southern California since 2018, primarily as a bartender, and
6 primarily at what is now called BMO Stadium. His work for Legends has been as a non-exempt,
7 hourly paid employee. Shuster Decl. ¶ 2. On October 3, 2022, Intervenor filed a Class Action
8 Complaint against Defendant in LA County Superior Court in *Shuster* claiming that Legends failed
9 to timely pay wages upon discharges based on Defendant’s practice of not paying class members
10 immediately when they experience layoffs in violation of Labor Code § 201; Legends failed to
11 reimburse class members for the expenses they incur on account of the requirements of their jobs;
12 Legends failed to provide 10-minute duty free rest breaks to class members in violation of Labor
13 Code section 226.7 and applicable Wage Order provisions; Legends failed to properly account for
14 and pay gratuities owing to class members in violation of Labor Code §§ 351 et seq.; and Legends
15 failed to issue proper wage statements in violation of Labor Code § 226. Moss Decl. ¶ 19 & Ex. A.

16 The current operative complaint in *Shuster* is the Third Amended Complaint filed on August
17 26, 2024. *Id.* ¶ 3, Ex. B.

18 **B. Intervenor’s Claims in *Shuster* Have Been Actively Litigated**

19 Intervenor conducted substantial litigation in *Shuster* prior to the day Legends’ counsel
20 advised Shuster’s counsel of the *Murchison* settlement last month. Throughout the period that
21 Shuster’s counsel was engaged in extensive discovery battles with Legends, counsel for Legends did
22 not indicate it had scheduled a mediation in *Murchison* or reached a settlement in *Murchison*. Moss
23 Decl. ¶ 20. Indicative of the time spent in *Shuster* litigating discovery disputes are the accurate
24 representations made in a June 9, 2025 request to the *Shuster* court for an IDC. *Id.* ¶ 5, Ex. D.

25 **C. Murchison Had Not Gotten Off the Ground Against Legends Before the**
26 **Parties in Murchison Negotiated A Sweetheart Deal.**

27 The *Murchison* action was filed on December 6, 2021. The original complaint and the First
28 Amended Complaint in *Murchison* did not name or allude to Legends. The named Defendants in the

original *Murchison* Complaint were MVP Event Productions, a staffing company, and Gregory Fielding. Moss Decl. ¶ 21 & Exs. E, F. It was not until close to a year and a half after his original complaint was filed, on April 21, 2023, long after Intervenor had sued and served Legends, that Murchison filed a Second Amended Complaint that added Legends as a Defendant. *Id.* ¶ 21 & Ex. G.

On April 1, 2022, two years before *Murchison* sued and served Legends, a case was filed in Sacramento Superior Court against MVP and Legends entitled *Bates v. MVP Event Productions, LLC et al.*, Sacramento Superior Court Case No. 34-2022-00317653-CU-OE-GDS (“*Bates*”), that expressly sought relief against Legends and the staffing company named in Murchison’s complaint on behalf of persons who had been assigned to work at Legends’ events and other events by MVP. See Exhibit 1 to the Request for Judicial Notice (“RFJN”) filed concurrently herewith.

D. Murchison Settled this Matter After this Court Ruled that He Could Not Pursue This Case Given the Settlements in Hightower and Bates.

The following is a chronology of events in the related matters that inform the issues, including that Murchison did not have authority to settle this matter based on this Court’s prior findings:

In March 2023, before filing against Legends, counsel for Murchison sought, through counsel for Legends, to coordinate settlement of *Murchison* with the *Bates* mediation scheduled for July 12, 2023. Moss Decl. ¶ 10, Ex. I (Alison Hamer January 11, 2024 Declaration in Support of Protective Order in *Murchison* (“Hamer Decl.”) at ¶¶ 5-6. The *Bates* mediation took place on July 12, 2023 without Murchison. *Id.*, Ex. I ¶ 13.

Plaintiff served written discovery and a Notice of Deposition of Legends’ Person Most Knowledgeable in July of 2023. Legends objected to the PMK deposition and did not produce a witness and responded to the discovery with objections only. *Id.*, Ex. I ¶¶ 15-21. In October 2023, Plaintiff filed Motions to Compel the PMK deposition and to Compel Responses to Interrogatories scheduled for January 19, 2024. Moss Decl. ¶¶ 11-12, Exs. J, K. After opposing the Motions to Compel, Legends filed a Motion for a Protective Order on January 11, 2024 seeking a stay on discovery pending the outcome of *Bates*; Moss Decl. ¶ 13, Ex. L. This Court continued the hearing on the Motions to Compel until May 24, 2024. Moss Decl. ¶ 14, Ex. M (Supplemental Declaration of Natalie Mirzayan in Support of Plaintiff’s Motion to Compel further Responses ¶¶ 4-5.)

On April 26, 2024, This Court, Judge Randall J. Sherman, granted the Motion for a Protective Order ruling that Murchison’s claims for the period pre-dating August 20, 2021, are barred by a release in a prior case (*Hightower*). For the period after August 20, 2021, the Court stayed discovery as to alleged “wage and hour violations suffered by employees other than plaintiff [Murchison]” pending final determination of the settlement in *Bates*, pointing out that if the *Bates* settlement is approved, Murchison “may not be a proper class representative for those employees [directly hired by Legends]” because he was hired through defendant MVP sued in *Bates* and the *Bates* settlement would resolve class claims of Legends workers hired through MVP. Moss Dec. ¶ 15, Ex. N pp.1-2.

On January 10, 2025, the *Bates* court gave Final Approval to a settlement covering a class of 1,687 people staffed to Legends by MVP. RFJN Ex. 2 ¶ 6. Plaintiff opted out of the class. *Id.*, Ex. 3. Notwithstanding his decision to opt out, per this court’s April 26, 2024 Order, Murchison remained precluded from class discovery and from representing a class of Legends’ direct hires in this action.

On February 21, 2025, the *Murchison* parties attended mediation and reach a settlement. Moss Decl ¶ 16, Ex. O; Mirzayan PA Decl. ¶ 12. Pursuant to the Settlement, on April 14, 2025, Plaintiff submits a Second Amended PAGA letter to LWDA adding theories and facts that appeared in the other cases, including *Shuster*, and that had never before appeared in previous filings by Plaintiff, and adding a second aggrieved employee Davina Bhullar. Mirzayan PA Decl. Ex. 3. On April 15, 2025, *Murchison* settlement is executed by Murchison. *Id.*, Ex. 1 (“Settlement”) at pg. 27. On May 23, 2025, Plaintiff filed his Motion for Preliminary Approval of Settlement. Moss Decl. ¶ 17, Ex P.

The *Murchison* Settlement, by its terms, promises the filing of a Fourth Amended Complaint. Mirzayan PA Decl., Ex. 1 (Settlement) § 2.6 & Ex. 2. It adds facts and claims that were not previously alleged in pleadings in *Murchison* that will be released if the Settlement is approved (For example, the Labor Code § 2802 reimbursement claim, the claim of untimely payments of final paid wages upon layoffs in violation of § 201 (as opposed to previously alleged derivative violations of § 201 dependent on success of other claims), the suitable seating claim, and the § 351 claim. *Id.*, Ex. 2 at ¶¶ 41, 46, 47 and 48, as well as corresponding Sixth, Eighth and Tenth causes of action and PAGA).

E. Intervenor is a Member of The Murchison Settlement Class.

The Settlement defines the “Class” as “all individuals who are or previously were employed

by Legends Hospitality, LLC in the State of California on a non-exempt basis at any time during the Class Period.” Settlement § 1.6. It defines “Class Period” as “August 21, 2021 through either (1) the Preliminary Approval Date, or (2) April 28, 2025, whichever is earlier.” Settlement § 1.13. Intervenor is a member of the class that is the subject of the *Murchison* Settlement. See Shuster Decl. ¶ 3.

F. If Approved, the *Murchison* Settlement Wipes Out the *Shuster, Martinez* and *Crook* Cases at an Unjustified Fraction of Potential Exposure

The Release in the *Murchison* settlement releases all claims in *Shuster, Crook* and *Martinez* for the period August 21, 2021 through April 28, 2025 and the tip claims for a longer period for the gross settlement of \$775,000. Mizrayan PA Decl., Ex. 1 §§ 1.45-1.45.3, 1.1 and 1.24.

Per the *Murchison* settlement, there are 10,587 Class Members who worked 516,223 workweeks during the class Period. Settlement § 4.1. As contemplated by the Settlement terms, if approved, the Settlement will be allocated as follows: \$775,000 - \$30,000 as the LWDA’s PAGA share = \$745,000 allocated as follows: \$310,000 in fees, \$35,776 in Settlement Administration, \$25,000 in Enhancements to class representatives, \$4,000 in estimated litigation costs, \$10,000 aggrieved employees PAGA share = \$360,224 Net to the Class. Settlement §§ 3.2.1-3.2.4.

The net to the class of \$360,224 for class claims divided by 10,587 Class Members = an average of \$34.02 per class member. Dividing the \$360,224 net by 516,223 workweeks = payments to each class member of \$0.70 per workweek for all violations. Moss Decl. ¶ 22.

III. INTERVENOR SHOULD BE GRANTED LEAVE TO INTERVENE UNDER CALIFORNIA’S MANDATORY AND PERMISSIVE INTERVENTION STATUTE.

Intervenor should be granted leave to intervene because California law provides that Intervenor, as members of the putative settlement class, may intervene in the action in order to participate in the action and protect against unwarranted compromises of their rights. Under CCP § 387, the right to intervene in an action is unconditional or permissive. Both apply here.

A. Mandatory Intervention Under CCP § 387(b) Is Warranted.

Under Cal. Civ. Proc. Code § 387(b), intervention “is unconditional when the person seeking intervention claims an interest relating to the property or transaction that is the subject of the action, the disposition of the action may impair or impede the person’s ability to protect that interest, and the

1 interest is not being adequately represented by existing parties.” *Mylan Laboratories Inc. v. Soon-*
2 *Shiong* (1999) 76 Cal. App. 4th 71, 78-79 (citing Cal. Civ. Proc. Code § 387(b)). For intervention to
3 be mandatory, the Intervenor’s interest must be direct and not consequential, and it must be an interest
4 which is properly determined in the action in which the intervention is sought. *Jersey Maid Milk*
5 *Prods. Co. v. Brock* (1939) 13 Cal. 2d 661,663.

6 The Supreme Court recognizes that unnamed class members have a cognizable interest in a
7 class action for intervention purposes. *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal. 5th
8 260, 267 (“class members whose interests are not adequately represented by the existing parties” are
9 entitled to intervention as a matter of right). Intervention statutes must be liberally construed in favor
10 of intervention. *Simpson Redwood Co. v. State of California*, (1987) 196 Cal. App. 3d 1192, 1200

11 a. Intervenor Has a Direct Interest in this Action and the Pending Settlement 1
12 Will Impede Intervenor’s Ability to Protect That Interest.

13 As a member of the putative class in *Murchison*, Intervenor has a direct interest in this
14 litigation and any potential settlement that may be approved. The requirement of a direct and
15 immediate interest means that the interest must be of such a direct and immediate nature that the
16 moving party “will either gain or lose by the direct legal operation and effect of the judgment.
17 [Citation omitted].” *City & Cty. of S.F.* (2005) 128 Cal. App. 4th 1003, 1037. “A person has a direct
18 interest justifying intervention in litigation where the judgment in the action of itself adds to or
19 detracts from [the non-party’s] legal rights without reference to rights and duties not involved in the
20 litigation. [Citation omitted].” *Id.* Here, Intervenor clearly has “a direct interest justifying
21 intervention” because, if final approval is granted, any “legal rights” he and the classes he seeks to
22 represent have under Labor Code §§ 510, 1182.12, 1194, 1197, 1197.1, 1198, 226.7, 227.3, 351, 512,
23 226(a), 227.3, 1174(d), 246(i), 201-203, 201.3, 204, 210, 221, 223, 2802, 2810.5, 201-203, 2802,
24 226, 351 et seq., 226.7, 510, 512, 1194, 1197, and 1198, as well as PAGA, would be wiped out for
25 the Class Period. Settlement §§ 1.45-1.45.3, 1.1, and 1.24.

26 Because an approved settlement in *Murchison* will dispose of the class and PAGA claims of
27 potential class members in *Shuster*, *Martinez* and *Crook*, Intervenor meets the second prong for
28 mandatory intervention. Accordingly, intervention is required.

1 b. As a Class Representative, Intervenor Has a Fiduciary Duty to Intervene.

2 As the class representative in *Shuster*, Intervenor has a fiduciary obligation to the absent class
3 members, whom Intervenor represents, to intervene in this action and ensure that the interests of all
4 other impacted employees are protected in the *Murchison* action and in any settlement that may seek
5 to release their claims. *Heckmann v. Ahmanson* (1985) 168 Cal. App. 3d 119, 130 (“[B]y asserting a
6 representative role on behalf of the alleged class, [plaintiffs] voluntarily accepted a fiduciary
7 obligation towards the members of the putative class they thus have undertaken to represent. They
8 may not abandon the fiduciary role they assumed at will or by agreement with the [defendant]”
9 (quoting *Shelton v. Pargo, Inc.* (4th Cir. 1978) 582 F.2d 1298, 1305; *see also Cohen v. Beneficial*
10 *Indus. Loan Corp.* (1949) 337 U.S. 541, 549 (class representative is a fiduciary for absent class
11 members)). Because Plaintiff has not protected the interests of absent class members who have viable
12 claims, Intervenor’s motion should be granted to allow him to fulfill his fiduciary duties.

13 c. The Interests of Intervenor and the Putative Classes that Are the Subject of the
14 *Shuster* Action Are Not Adequately Represented by Plaintiff.

15 Plaintiff has not adequately represented Intervenor and the current and former employees he
16 seeks to represent because the proposed settlement Plaintiff negotiated in *Murchison* fails to
17 adequately value the claims, inappropriately releases claims with little to no explanation, and
18 allocates the settlement unfairly among subgroups within the Settlement Class. Further, *Murchison*
19 improperly applied a severe discount to some of the claims based on a misapprehension of the law.

20 i. Plaintiff Has Not Adequately Valued the Claims.

21 Approval of a settlement is appropriate only if investigation and discovery are sufficient to
22 allow counsel and the court to act intelligently. The court, in exercising its assessment of class
23 settlements, must be provided a sufficiently developed record from which it can independently and
24 objectively analyze the evidence and circumstances before it. *Kullar v. Foot Locker* (2008) 168
25 Cal.App.4th 116, 128-129; *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801. In the end,
26 “[t]he salient point is whether the factual record before the court is sufficiently developed to satisfy
27 itself ‘that the consideration being received for the release of class members claims is reasonable in
28 light of the strengths and weaknesses of the claims and the risks of the particular litigation.’” *Munoz*

1 *c. BCI Coca-Cola Bottling Co, of Los Angeles* (2010) 186 Cal. App. 4th 399, 410. Both the
2 investigation conducted by Plaintiff and the information provided to the Court was insufficient here.
3 Denial of Preliminary Approval and intervention is warranted.

4 **a. Plaintiff’s Scant Investigation Was Insufficient to Assess**
5 **the Value of the Claims.**

6 The factors courts should consider in evaluating the reasonableness of a class action settlement
7 include the strength of plaintiffs’ case, the extent of discovery completed and the stage of the
8 proceedings. *Kullar*, 168 Cal.App.4th at 128. In *Kullar*, the court determined that a wage and hour
9 class action settlement was unreasonable where counsel asserted that information had been exchanged
10 informally during the course of a mediation session but the supporting declarations provided no
11 specificity on the nature of the investigation or what information had been reviewed to assess the
12 strength of the class members’ claims. *Id.*

13 Here, like in *Kullar*, there is no evidence that Plaintiff’s counsel engaged in any discovery
14 that resulted in the production—through written discovery or depositions—of the type of verified
15 substantive information needed to inform settlement negotiations. Moss Decl. Ex. O; Mirzayan PA
16 Dec. *passim*. In fact, given this Court’s ruling on Defendant’s request for a protective order, Plaintiff
17 was barred from engaging in formal class discovery. Moss Decl., Ex. N. Had Plaintiff’s counsel
18 taken depositions of percipient witnesses or Defendant’s Person(s) Most Knowledgeable (“PMK”),
19 or even just talked to a sampling of putative class members from each venue (following a Belaire
20 West notice process) regarding the alleged violations, she would have surely explained that process
21 in her declaration and explained what information she gleaned—but she attested to none of that.
22 Although Plaintiff’s counsel recognizes that Defendant has several locations within the State, her
23 declaration does not indicate that she spoke to any witnesses other than her two clients. Mirzayan PA
24 Dec. *passim*.

25 Given that Legends was not part of the *Murchison* case until April 21, 2023, and given the
26 history of Plaintiff’s thwarted efforts at formal discovery in *Murchison*, including motions to compel
27 filed by Plaintiff that were never heard, and the success of Legends’ Motion for a Protective Order,
28 it is clear that Plaintiff’s counsel had not and could not reach out to any meaningful number of the

1 over 10,000 putative class or PMKs from each venue to assess the practices of Legends at each venue
2 throughout the period covered by the Settlement. In fact, the only information Plaintiff's counsel
3 relied on in settling the case was the following:

4 "Class Counsel obtained substantial payroll and other data related to Class Members
5 for mediation purposes, through formal and informal discovery, including but not
6 limited to, propounding written discovery requests and interrogatories, and
7 production of documents. Class Counsel obtained Defendant's employee handbook,
8 all relevant wage and hour policies and procedures during the class period, collective
9 bargaining agreements, time and payroll records, tip and other data, venue event
10 schedules, sample meal break waivers, exemplars of time edit authorization forms,
11 total number of class members during the class period, and other statistics.

12 *Id.* ¶ 12. Plaintiff's counsel never explains what the evidence showed or what her investigation, to
13 the extent she conducted any, uncovered, repeatedly using phrases like "Legends contends that..." or
14 "Legends also argues that ..." *See id.* ¶¶ 16-21; see also Moss Decl. Ex. P (PA Motion) at 12:23-
15 16:18. At no time does Murchison's counsel challenge any of Legends' arguments or provide
16 evidence confirming Legends' contentions or test whether practices at the multiple venues conformed
17 with Legends' contentions as to policy.

18 Plaintiff discounted the settled claims it chose to address relying on Defendant's "contentions"
19 as follows: Plaintiff reduced the Section 2802 claim by 85% for certification risks, plus an additional
20 85% reduction because "Legends contends that..." and "Legends argues..." (PA Mot. 12:23-13:13);
21 reduced the unpaid wage claims by 85% for certification risks, plus an additional 90% because
22 "Defendant contends..." "Defendant further contends..." and "Defendant also contends..." (*id.*
23 13:14- 14:3); reduced the meal break claims by 90% for certification risks, plus an additional 95%
24 because "Defendant disputes..." "also asserts..." "Defendant contends..." and "Defendant also
25 contends..." (*id.* 14:4-19); reduced the rest break claims by 90% for certification risks, plus an
26 additional 90% because "Defendant asserts..." Defendant contends..." and "Defendant also
27 contends..." (*id.* 14:20-15:5); reduced the wage statement claims by 80% for certification risks, plus
28 an additional 95% because "Defendant contends..." (*id.* 15:6-18); reduced the waiting time penalty
claims by 90% for certification risks, plus an additional 90% because "Defendant, however,
contends..." and "Defendant also contends..." (*id.* 15:19-16:10; Mizrayan PA Decl. ¶ 21 (reduction
of gratuity related claims).)

1 Such massive discounting without evidence upon which the Court can fulfill its obligation to
2 assess the settlement not only justifies rejection of the Settlement, but the need of Shuster to intervene.

3 **b. Plaintiff's Handling of the Reimbursement Claim Is**
4 **Indicative of Plaintiff's Failings.**

5 The claim for unreimbursed expenses—a claim Shuster, Crook and Martinez alleged in their
6 complaints against Legends from the inception of those cases—was not anywhere in the filings of
7 Murchison until her Amended PAGA letter in April 2025. Murchison only added it as a condition of
8 settlement after Legends failed to get agreement on settlement of this claim at mediation with Shuster
9 in 2024. Murchison could not have conducted any formal discovery in regards to this claim, having
10 been barred from class discovery long before it negotiated resolution of this claim. Murchison
11 provided the following explanation for the valuation and discounting of the claim by 85% for
12 certification risks, and an additional 85% for merits defenses:

13 “Legends **contends** that it provides employees with adequate complimentary parking, for
14 some venues according to a collective bargaining agreement, and **tools to communicate as**
15 **well as schedules communicated verbally and via paper postings, and therefore**
16 **employees were not required to incur expenses related to cellphones to perform their**
17 **work or for scheduling purposes.** Legends also argues that **this claim is not suitable for**
18 **class treatment because it will require individualized determinations as to whether each**
19 **employee chooses** to park where fees are required or **to use a cellphone and the reason for**
20 **doing so**, as well as whether employees ever notified Legends that these expenses were
incurred **and whether employees actually incurred costs (rather than, for example, a**
family member paid for their data plan). Accordingly, Plaintiffs discounted the maximum
exposure by 85% for the risk of non-certification, and an additional 85% to account for
Defendant's defenses on the merits, to arrive at an estimated exposure of \$70,406.30.”

21 Mirzayan PA Decl. ¶ 16 (bold added). Conspicuously absent from the Mirzayan PA Decl. is any
22 actual evidence regarding this claim. In *Shuster*, where this claim has been pending for years and over
23 which there has been significant discovery and follow-up investigations, including interviews of
24 putative class members from the various venues, evidence has been developed that the 10,000+
25 employees assigned to work at events intermittently for Legends are inundated with emails and text
26 communications between events, and to a lesser extent receive phone calls from Legends' managers
27 between events, and that there have been over a million emails exchanged between Legends and their
28

1 employees during the class period. Moss Decl. ¶ 20.

2 The interviews that Shuster’s counsel conducted established that the clear requirement of class
3 members to have electronic devices such as phones and/or computers and related plans as part of their
4 employment extends across all intermittent employees. Moss Decl. ¶ 20. There are also directives
5 from Legends requiring employees to access information from “apps” they download onto their
6 personal phones at orientations. *Id.*

7 Aside from the failings of evidence upon which Plaintiff or the Court could justify the
8 substantial discounting of the reimbursement claim, the legal assertions Plaintiff made as to this issue
9 shows a failure of Plaintiff to do minimal research. Murchison discounted this claim in part because
10 of the possibility that “a family member paid for [an employee’s] data plan” but there is no legal basis
11 for that position as it was rejected over a decade ago. *Cochran v. Schwan’s Home Serv., Inc.* (2014)
12 228 Cal. App. 4th 1137, 1144 (“If an employee is required to make work-related calls on a personal
13 cell phone, then he or she is incurring an expense for purposes of section 2802. It does not matter
14 whether the phone bill is paid for by a third person, or at all. In other words, it is no concern to the
15 employer that the employee may pass on the expense to a family member or friend, or to a carrier
16 that has to then write off a loss.”).

17 Similarly, Murchison’s argument that a section 2802 claim is deficient if the employees did
18 not ask for reimbursement or otherwise “notify Legends that the expenses were incurred” was
19 similarly rejected in *Stuart v. RadioShack Corp.* (N.D. Cal. 2009) 641 F.Supp.2d 901, 902-903, and
20 *Wilson v. La Jolla Group* (2021) 61 Cal.App. 5th 897, 919. An employee need not request
21 reimbursement if the employer “know[s] or ha[s] reason to know that the employee has incurred an
22 expense”. *Potts v. Sirius XM Radio, Inc.* (9th Cir. 2024) 2024 WL 1328191 (citing *Stuart* and *Wilson*).
23 Here, as Legends is constantly sending emails and texts to its employees and frequently compelling
24 responses through emails and texts, Legends has reason to know its employees are incurring expenses
25 associated with the communications on personal devices.

26 Given the ubiquitous nature of electronic communications from Legends to employees
27 statewide, the Court is not in a position to approve a settlement that reduces exposure on this issue
28 based on “certification” by 85%, and then reduced by a further 85% based on merits considerations.

**c. Plaintiff's Failure to Determine the Facts and Law As to the
Labor Code section 203 Claim Also Warrants Intervention.**

Another example of Plaintiff's failure to properly provide the Court with an adequate rationale for the proposed settlement, relates to the settlement of claims that Legends violated Labor Code section 201 when laying off intermittent workers at the conclusion of events when the employees were not scheduled for another assignment for a week or more after the event. Such layoffs occur at the end of seasons and at conclusion of events. As alleged in Shuster's Third Amended Complaint giving rise to the First Cause of Action for violation of Labor Code §201 :

““17. During the liability period, when an event concluded, and intermittently employed workers were not on the schedule to return to work for Defendants for a week or longer, they were laid off until they returned to work for another assignment.

18. During the liability period, when Plaintiff and other intermittently employed workers were laid off between events for a week or more, they were not paid immediately, but rather paid no earlier than a week after the end of the pay period during which the layoff occurred.”” (Moss Decl. ¶ 3, Ex. B ¶¶ 17-18.)

Shuster alleges that Legends violated Section 201 by waiting until regular paydays to pay employees when they are laid off at the conclusion of a season or event and are not paid immediately. On the basis of this violation, Shuster seeks for the employees subject to these layoffs, waiting time penalties pursuant to Section 203 of one day of pay for each day the wage payment were late. As with the 2802 claim, Legends sought to settle this claim with Murchison in 2025 after it failed to reach settlement of the claim with Shuster at mediation in 2024, even though Murchison had never alleged this theory of liability. *Id.* ¶ 23 & Ex. B. Thus, as a condition of Settlement, Plaintiff is required to file a Fourth Amended Complaint to add this theory and a new plaintiff who experienced this violation. Mirzayan PA Dec., Ex. 2 ¶ 41 (adding “In addition, LEGENDS did not timely pay all wages earned upon discharge of employment of BHULLAR and the CLASS at the end of each season.”).

Notably, Plaintiff did not set forth the value of Labor Code § 203 claims in counsel's declaration in support of preliminary approval but nevertheless did assert in the Points and Authorities that the exposure on derivative 203 claims that derive from other violations of the Labor Code in the complaint and the non-derivative section 203 claims based on end of season layoffs, combined,

1 amounts to \$16,106,059.68. Moss Dec., Ex. P (PA Mot.) at 15-16.

2 Plaintiff then asserted as a defense to the end of season layoff claim, as opposed to the other,
3 derivative 203 claims, that “Defendant also contends that employees are continuously employed until
4 they voluntarily resign or Defendant affirmatively terminates their employment and that the
5 conclusion of a season does not in itself constitute a discharge triggering immediate payment of wages
6 under Labor Code section 201.” *Id.*, Ex. P at 16:5-8. Shuster’s counsel’s investigation has confirmed
7 the common facts as to all class members throughout the class period, that the timing of final wage
8 checks upon breaks in assignments of a week or more, including end of season breaks in service,
9 layoffs, are not immediate, but regularly occur several days later on days regularly scheduled for
10 wage payments. These common facts and legal contentions make this issue suitable for certification
11 given common issues of fact and law. Yet, for all 203 claims (derivative and layoff claims), Plaintiff
12 “discounted the maximum exposure by 90% for the risk of noncertification, and an additional 90%
13 to arrive at an estimated exposure of \$161,060.59.” Shuster’s counsel’s investigation of the law and
14 facts makes clear that the severe discounting of non-derivative claims is not warranted. *Id.* ¶¶ 23-36.

15 The legal issues are also common and supportive of certification. They include for example:
16 What is a layoff? Are layoffs a form of discharge under Labor Code § 201? Is the analysis of whether
17 a layoff is a form of discharge under Labor Code § 201 different if the employee and/or employer
18 have an expectation of the employee returning to work in the future? Does it make a difference if the
19 return to work date is scheduled or undetermined?

20 The answers to these questions involve serious analysis that should inform any settlement
21 negotiations. Shuster has done this analysis; Murchison has not. *Id.* ¶¶ 23-36.

22 ii. The Parties Failed to Provide the Court With Sufficient Information to
23 Properly Assess the Settlement.

24 Because Plaintiff conducted insufficient discovery and investigation of the claims, the Court
25 currently lacks enough information about the nature and the magnitude of the claims being settled for
26 the Court to make an independent assessment of the terms to which the parties agreed. *Kullar*, 168
27 Cal.App.4th at 133. As demonstrated above, the Court was presented with contentions that were not
28 challenged or backed up with facts.

1 iii. The Allocations Result in an Inequitable Distribution of Funds.

2 The allocation of the settlement proceeds is completely insensitive to the reality that some
3 class members have more valuable claims than others. irrespective of whether Plaintiff presented an
4 adequate record. Plaintiff’s counsel valued the claims as follows: Unpaid Wages due to Rounding at
5 \$178,624.10, Unpaid Overtime due to regular rate underpayments at \$106,624.10, Unpaid Rest Break
6 Premiums at \$1,693,018.06, Unpaid Meal Break Premiums at \$1,204,612.05, Wage Statement
7 penalties at \$869,500, Waiting time Penalties at \$1,662,384.00. Mizrayan PA Dec. ¶ 61.

8 The Net Settlement is to be paid out to Class Members “based on the pro rata number of weeks
9 worked by the Class Member during the Class Period”. Settlement § 3.2.5.

10 A settlement that fails to take into account the interests of those who have stronger claims should
11 not be approved. A class action settlement carries with it an inherent risk of injustice to class members
12 who may be deprived of their rights. *City of San Jose v. Superior Court* (1974) 12 Cal.3d 447, 458.
13 Court approval processes are designed in part “to prevent... unfairness to the class.” *Cellphone*
14 *Termination Fee Cases* (2009) 180 Cal. App. 4th 1110, 1117. “The purpose of the requirement is ‘the
15 protection of those class members ... whose rights may not have been given due regard by the
16 negotiating parties.’ [Citation.]” *Dunk*, 48 Cal.App.4th at 1801. In the seminal case of *Amchem*
17 *Products, Inc. v. Windsor* (1997) 521 U.S. 591, 627-628, the Supreme Court rejected a global
18 compromise, like the one here, where there was no structural assurance of fair and adequate
19 representation for diverse groups. As stated in *Luckey v. Superior Court* (2014) 228 Cal.App.4th 81,
20 93, the court must “determine the settlement is fair, adequate, and reasonable. The purpose of the
21 requirement is ‘the protection of those class members, including the named plaintiffs, **whose rights**
22 **may not have been given due regard by the negotiating parties.**”

23 Here, the workweek settlement formula is not “fair, reasonable and adequate” when it comes to
24 class members with the stronger claims. Class members ineligible for wage statement penalties due
25 to the one-year statute of limitations are sharing in the money allocated for that claim. Class members,
26 like Murchison, who worked at Angel Stadium are sharing in the part of the settlement allocated to
27 203 waiting time penalties despite the “baseball exception” to section 201 in section 201.8. Further,
28 Plaintiff settled *derivative* 203 claims which per Plaintiff should only apply to employees whose

ongoing employment relationship has ended by termination or resignation, not by layoff, by allocating part of the settlement of that claim to current employees who have not resigned or been permanently terminated. They are compensated under the same workweek settlement formula as employees who have that claim. Plaintiff has violated the spirit and letter of *Amchem* by not adopting a settlement formula that looks out for the interests of those class members with the stronger claims.

Aside from the above examples is the glaring fact that Plaintiff made no effort to assess the extent to which some class members may have stronger claims than others. With the case law requiring fairness and due regard for all class members' rights, and *as Amchem* requires in settlements, a "structural assurance of fair and adequate representation for the diverse groups," it is necessary in a multi-location several year settlement context like that existing here, that a settling Plaintiff take steps to explore the strengths and weaknesses of each settled claim at each of the venues where Legends operates over the course of the Settlement period because the fact and extent of violations may vary by venue and by time period. Absent such analysis there is clearly "no structural assurance of fair and adequate representation for the diverse groups."²

B. This Motion to Intervene Is Timely.

"Timely," for purposes of the statute, is "a reasonable time," which the court determines by considering the conduct and situation of the parties, the nature of the transaction, and the particular circumstances of each case. *Sawday v. Vista Irrigation Dist.* (1966) 64 Cal.2d 833, 836. This motion is timely as Intervenor has acted diligently in seeking intervention, filing this Motion shortly after he became aware of the settlement, before the preliminary approval hearing, and before the parties incurred the costs associated with notice to over 10,000 class members. Moss Decl. ¶ 20.

V. CONCLUSION

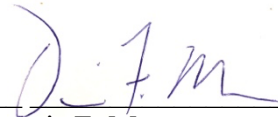
For all of the foregoing reasons, Intervenor respectfully requests that this Court grant his application for leave to file the Complaint in Intervention attached hereto as **Exhibit 1**.

² Intervenor also meets the requirements for permissive intervention. As a member of the putative settlement class, Intervenor has a "direct and immediate" interest in any settlement and in this action generally. *See Bernardino v. Harsh California Corp.* (1959) 52 Cal. 2d 341, 346 (allowing the United States to intervene in action in order to protect its financial interest). Further, intervention does not enlarge the issues in the *Murchison* case. The Complaint in Intervention addresses claims pending in the *Murchison* case or that *Murchison* intends to include upon the filing of the Fourth Amended Complaint.

1 Respectfully submitted,

2 Dated: July 18, 2025

MOSS BOLLINGER LLP

3
4 By: 

Dennis F. Moss

Attorneys for Intervenor Scott Shuster

EXHIBIT 1

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Attorneys for Intervenor SCOTT SHUSTER

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

DOMINGO MURCHISON, individually and
on behalf of all current and former similarly
situated employees in the State of California,

Plaintiff,

vs.

MVP EVENT PRODUCTIONS, LLC, a
California Limited Liability Company dba
MVP EVENT STAFFING; GREGORY
FIELDING, an individual; LEGENDS
HOSPITALITY, LLC, a Delaware Limited
Liability Company (previously designated by
the fictitious name of "DOE 1"; and DOES 2 to
50, inclusive.

Defendants.

Case No.: 30-2021-01234789-CU-OE-CXC

[Assigned for All Purposes to Hon. Judge
Randall J. Sherman]

CLASS ACTION

**CLASS MEMBER SCOTT SHUSTER'S
COMPLAINT IN INTERVENION**

Location: Dept. CX101

Date: August 15, 2025

Time: 9:00 a.m.

Reservation Number 74612554

1 Class member Scott Shuster (“Intervenor”) on behalf of himself and all other similarly
2 situated persons employed by Defendant Legends Hospitality, LLC (“Defendant”), intervenes in
3 this action pursuant to Code of Civil Procedure section 387, as follows:

4 **ALLEGATIONS RE: INTERVENTION**

5 1. On September 29, 2022, Intervenor sent a letter to Defendant and the Labor
6 Workforce Development Agency pursuant to the Private Attorney General Act, Labor Code Section
7 2699.3(a)(1) (“PAGA”) notifying them of his claim for civil penalties under PAGA for Defendant’s
8 violations of the Labor Code including failure to timely pay all wages owed upon discharge, failure
9 to provide legally compliant rest periods, failure to reimburse necessary business expenses, failure
10 to provide legally compliant wage statements, and unfair business practices.

11 2. On October 3, 2022, Intervenor filed a class action complaint against Defendant in
12 Los Angeles County Superior Court, Case No. 22STCV32193 (the “*Shuster* Action”). His
13 complaint alleged violations of the Labor Code and the applicable Wage Order for failure to pay
14 wages timely upon termination, rest break violations, non-reimbursement of business expenses,
15 failure to furnish accurate itemized wage statements, and seeking restitution pursuant to
16 California’s Unfair Competition Law.

17 3. After the 65-day notice period under PAGA expired, on December 5, 2022,
18 Intervenor amended his complaint to add claims for penalties under PAGA. Intervenor’s claims are
19 limited to employees of Defendant who fall within one or more of the definitions of six distinct
20 classes.

21 4. The *Shuster* action alleges the following classes:

- 22 a. Labor Code § 201 and § 203 Class: All persons employed intermittently by
23 Legends Hospitality, Inc., in California during the period from October 3,
24 2019, through the date Notice is mailed to the Class who worked at venues
25 that were not covered by a collective bargaining agreement that contains
26 provisions that clearly constitute waivers of employee rights to bring claims
27 of statutory violations in court as opposed to arbitration. (As used hereinafter,
28

1 the term “Persons employed intermittently” refers to persons whose
2 employment by Legends is limited, with rare exceptions (e.g., for training), to
3 work performed on days when Defendants’ venues at which the employees
4 work have events where the employees provide food and beverage services to
5 patrons.)

6 b. Pandemic Class: All persons employed by Legends Hospitality, Inc., in
7 California during the period from March 1, 2020, through the date Notice is
8 mailed to the Class who worked at venues that were not covered by a collective
9 bargaining agreement that contains provisions that clearly constitute waivers
10 of employee rights to bring claims of statutory violations in court as opposed
11 to arbitration and were laid off on account of the COVID-19 pandemic.

12 c. Rest Break Class: All persons employed intermittently by Legends
13 Hospitality, Inc., in California during the period from August 21, 2021
14 through the date Notice is mailed to the Class who worked at the Banc of
15 California Stadium (Currently known as BMO Stadium), the Los Angeles
16 Coliseum, SoFi Stadium, or YouTube Theater.

17 d. Reimbursement Class: All persons employed intermittently by Legends
18 Hospitality, Inc., in California during the period from August 21, 2021
19 through the date Notice is mailed to the Class who worked at venues that were
20 not covered by a collective bargaining agreement that contains provisions that
21 clearly constitute waivers of employee rights to bring claims of statutory
22 violations in court as opposed to arbitration.

23 e. Wage Statement Class: All persons employed intermittently by Legends
24 Hospitality, Inc., in California during the period from October 3, 2021,
25 through the date Notice is mailed to the Class who worked at the Banc of
26 California Stadium (Currently known as BMO Stadium), the Los Angeles
27 Coliseum, SoFi Stadium, or YouTube Theater.

1 f. Labor Code § 351 Class: All persons employed by Legends Hospitality, Inc.,
2 in California during the period from October 3, 2018, through the date Notice
3 is mailed to the Class who worked in positions, including but not limited to
4 the position of bartender, that receive tips on credit cards left by patrons at
5 venues that were not covered by a collective bargaining agreement that
6 contains provisions that clearly constitute waivers of employee rights to bring
7 claims of statutory violations in court as opposed to arbitration.

8 5. At the time the *Shuster* action was filed there was a case pending in Santa Clara
9 County against Legends, the *Hightower* case, the outcome of which would necessarily have a
10 substantial impact on the scope of the potential liability period in this action. As a consequence,
11 prosecution of *Shuster* was stayed through July 31, 2023. Shortly after the stay was lifted, in August
12 2023, Shuster filed a Second Amended Complaint which revised the alleged liability period and
13 class definitions, to reflect the finality of the Settlement in *Hightower*.

14 6. In or around June 2025, Intervenor received notice of the proposed settlement in
15 the *Murchinson* Action. The *Murchinson* settlement was executed on April 15, 2025 and the Motion
16 for Preliminary Approval of the Settlement was filed on May 23, 2025.

17 7. Intervenor has been diligent in seeking to intervene. Intervenor objected to the
18 settlement and filed his request for leave to file a complaint in intervention within the notice period
19 provided in the Notice of settlement.

20 8. Intervenor has a direct interest in Intervenor's prosecution of the overlapping Class
21 Claims that form the basis of Intervenor's complaint and in the terms of any settlement reached
22 between Intervenor and Defendant in the anticipated mediation that will seek to resolve all claims
23 that Intervenor has pending in the *Shuster* Action.

24 9. Even if mandatory intervention does not apply, members of a class or association
25 are generally permitted to intervene in an action to which the class or association is a party. Since
26 each member is entitled to a share of any recovery in such action, Intervenor has a direct and
27 immediate interest in the outcome.

1 **COMPLAINT IN INTERVENTION**

2 **INTRODUCTION**

3 10. Through this Complaint in Intervention, Intervenor requests that the Court allow
4 Intervenor to intervene in this action to represent the interests of the State of California and of a
5 subclass of aggrieved employees in this litigation and in any future settlement negotiations that
6 purport to dispose of their claims under the Private Attorney General Act, Labor Code §§2698 et
7 seq. (“PAGA”) and the classes of employees defined herein.

8 11. Intervenor currently has a class and PAGA lawsuit pending before the Hon. Laura
9 Seigle of the Los Angeles Superior Court, Case No. 22STCV32193 brought on behalf of
10 Intervenor and other similarly situated employees of Defendant and the State of California, under
11 Code of Civil Procedure § 382 and Labor Code §§2698 et seq., seeking remedies for rest period
12 violations, waiting time penalties in the form of continuation wages for failure to timely pay
13 employees, inaccurate wage statement penalties, reimbursement of business expenses, civil
14 penalties, equitable relief, reasonable attorneys’ fees and costs.

15 **JURISDICTION AND VENUE**

16 12. Venue is proper in the County of Los Angeles pursuant to California Code of
17 Civil Procedure § 395.5 because the acts alleged herein took place in Los Angeles County,
18 California, among other counties in California.

19 13. This Court has jurisdiction over this action under Article 6 of the California
20 Constitution and California Code of Civil Procedure § 410.10.

21 14. This Court has jurisdiction over Intervenor’s, Plaintiff’s and Class Members’ claims
22 for waiting time penalties pursuant to California Labor Code §§ 201-203 and 218.

23 15. This Court has jurisdiction over Intervenor’s, Plaintiff’s and Class Members’ claims
24 for premium pay on account of rest break violations committed by Defendants pursuant to Labor
25 Code § 218 et seq.

26 16. This Court has jurisdiction over Intervenor’s, Plaintiff’s and the Class Members’
27 claims for expense reimbursements pursuant to Labor Code § 2802.

17. This Court has jurisdiction over Intervenor's, Plaintiff's and the Class Members' claims for penalties for inaccurate wage statement violations pursuant to Labor Code § 226(e).

18. This Court has jurisdiction over Intervenor's, Plaintiff's and the Class Members' claims for restitution of unpaid wages and other ill-gotten benefits arising from Defendants' unlawful and/or unfair business practices under California Business & Professions Code §§ 17200 et seq.

THE PARTIES

A. The Intervenor

19. Intervenor Scott Shuster is a resident of California. During the four-year period preceding the filing of this action, Intervenor has intermittently worked as a bartender in California for Legends. His “home” venue, and where he has worked most frequently, is at Banc of California Stadium. When he is assigned to other Legends venues, he is “loaned out.” There is a collective bargaining agreement (“CBA”) between Legends and Local 11 of The Hotel and Restaurant Employees Union, UNITEHERE! Local 11, that applies to Intervenor’s work when he works at Banc of California Stadium. Although the CBA contains grievance and arbitration provisions, the grievance and arbitration provisions do not cover claims of statutory, as opposed to contractual, violations. *Wright v. Universal Maritime Service Corp.* (1998) 525 U.S. 70; *Vasquez v. Superior Court* (2000) 80 Cal. App. 4th 430.

B. The Defendant

20. Defendant Legends Hospitality, LLC, is in the hospitality industry providing, among other things, food and beverage services at stadiums, arenas, amphitheaters and similar entertainment venues throughout the United States, including in Northern and Southern California. Intervenor has worked for Legends as a bartender at venues operated by Legends in Southern California, including at the Banc of California Stadium, SoFi Stadium, YouTube Theater and the Los Angeles Coliseum. Legends is a limited liability company organized and existing under the laws of Delaware, licensed to do business and actually doing business in California, including in

1 Los Angeles County. Intervenor is informed and believes, and thereon alleges, that its principal
2 place of business is in New York City.

3 21. Intervenor is informed and believes, and thereon alleges, that DOES 1 through 50
4 are corporations, individuals, limited liability partnerships, limited liability companies, general
5 partnerships, sole proprietorships or are other business entities or organizations of a nature not
6 currently known to Intervenor.

7 22. Intervenor is unaware of the true names of Defendants DOES 1 through 50.
8 Intervenor sues said Defendants by said fictitious name and will amend this complaint when the
9 true names and capacities are ascertained or when such facts pertaining to liability are ascertained,
10 or as permitted by law or by the Court. Intervenor is informed and believes, and thereon alleges,
11 that each of the fictitiously named Defendants is in some manner responsible for the events and
12 allegations set forth in this complaint.

13 23. Intervenor is informed and believes, and thereon alleges, that at all times herein
14 mentioned, each Defendant, including all Defendants sued under fictitious names, was the
15 employee, or representative of each of the remaining Defendants, and in doing the things hereinafter
16 alleged, was at times acting within the course and scope of this employment, and at other times,
17 acting in his or her own individual capacity. In the alternative, each of the individually named
18 Defendants, acted in concert and in furtherance of a fraudulent plan and scheme and each actively
19 participated in the wrongful acts alleged in this complaint.

20 **FACTS COMMON TO ALL CAUSES OF ACTION**

21 24. During the liability period, Defendants employed Intervenor and other similarly
22 situated intermittently employed non-exempt workers as food and beverage service employees on
23 event days at entertainment venues operated by Legends throughout California.

24 25. Defendants hire intermittently employed workers to work assignments on an
25 assignment-by-assignment basis.

1 26. During the liability period, when an event concluded, and intermittently employed
2 workers were not on the schedule to return to work for Defendants for a week or longer, they were
3 laid off until they returned to work for another assignment.

4 27. During the liability period, when Intervenor and other intermittently employed
5 workers

6 28. were laid off between events for a week or more, they were not paid immediately,
7 but rather paid no earlier than a week after the end of the pay period during which the layoff
8 occurred.

9 29. Throughout the applicable statute of limitations period, Intervenor and other
10 intermittently employed workers who worked at Defendants' venues in Los Angeles County where
11 Intervenor worked, including Banc of California Stadium (currently known as BMO Stadium), The
12 Los Angeles Coliseum, SoFi Stadium and YouTube Theater, were employed under working
13 conditions where they could not take rest breaks in conformance with the requirements of California
14 law on account of break length and location limitations and restrictions on activities they could
15 engage in outside of break locations. They were not given 10 minute duty free breaks as required
16 by law because of the amount of time allotted by Legends for breaks and the time necessary to walk
17 to and from designated break locations. Further, they could not simply leave their assigned
18 workstations to take rest breaks. They could not take a break absent directions to take a break given
19 to them by a "shift lead," "stand manager" or other supervisory employee. Intervenor and his co-
20 workers were consistently deprived of breaks on account of the failure of Defendants to direct them
21 to take breaks in compliance with California law.

22 30. Further, Defendants did not apprise intermittently employed workers who were
23 going to be working at an assignment for more than six hours, but less than eight hours, that they
24 were entitled to two ten-minute breaks during their shifts.

25 31. During the liability period, Defendants frequently communicated with their
26 intermittently employed workers, including Intervenor, through phone calls, text messages and
27 emails on the topics of assignments, training, cancellations, eligibility to take assignments, payroll
28

1 and other employment-related matters; and, the intermittently employed workers responded to
2 Defendants' communications through phone calls, text messages and emails. They were required
3 to have the tools to receive and respond to communications from Defendants, and Defendants
4 required employees to download a number of applications to facilitate communications between
5 Legends and its intermittently employed employees.

6 32. Defendants did not reimburse the intermittently employed workers for the costs of
7 their personal devices or for maintaining data plans that allowed them to receive and respond to
8 Defendants communications on their personal devices, nor did Defendants provide the employees
9 with the necessary devices and data plans to receive and send employment-related communications.

10 33. During the liability period, Defendants knowingly and intentionally did not provide
11 intermittently employed workers with wage statements that accurately reflected earned break
12 violation premium wages during each pay period. Employees suffered injury on account of their
13 incomplete and inaccurate wage statements.

14 34. Intervenor is informed and believes, and thereon alleges, that during the liability
15 period, he and other similarly situated employees who are regularly left gratuities by Defendants'
16 patrons in credit card transactions were not paid all such gratuities by Defendants.

17 35. Section 14 of the applicable Industrial Welfare Commission's Wage Orders,
18 including Wage Order 5, provide in relevant part: "(B) When employees are not engaged in the
19 active duties of their employment and the nature of the work requires standing, an adequate number
20 of suitable seats shall be placed in reasonable proximity to the work area and employees shall be
21 permitted to use such seats when it does not interfere with the performance of their duties." When
22 serving customers and preparing food or beverages, Intervenor and other intermittent employees
23 who work events at some Legends venues must stand to perform their work tasks. When there are
24 lulls in their work, or when at times they can take breaks, there are frequently no seats in reasonable
25 proximity to where they work available for them to use in violation of the Section 14(B) of the
26 Wage Order. Defendants' violations of Section 14 of the applicable Wage Orders constitute a
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1 violation of Labor Code Section 1198, which prohibits employment under conditions of labor that
2 violate the IWC Wage Orders.

3 **CLASS DEFINITIONS AND CLASS ALLEGATIONS**

4 36. Intervenor brings this action on behalf of himself, on behalf of all others similarly
5 situated, and as a member of Classes defined as follows:

- 6 a. Labor Code § 201 and § 203 Class: All persons employed intermittently by
7 Legends Hospitality, Inc., in California, through the date Notice is mailed to the
8 Class who worked at venues that were not covered by a collective bargaining
9 agreement that contains provisions that clearly constitute waivers of employee
10 rights to bring claims of statutory violations in court as opposed to arbitration.
11 (As used hereinafter, the term “Persons employed intermittently” refers to
12 persons whose employment by Legends is limited, with rare exceptions (e.g.,
13 for training), to work performed on days when Defendants’ venues at which the
14 employees work have events where the employees provide food and beverage
15 services to patrons.)
- 16 b. Rest Break Class: All persons employed intermittently by Legends Hospitality,
17 Inc., in California during the period from August 21, 2021, through the date Notice
18 is mailed to the Class who worked at the Banc of California Stadium (currently
19 known as BMO Stadium), the Los Angeles Coliseum, SoFi Stadium, or YouTube
20 Theater.
- 21 d. Reimbursement Class: All persons employed intermittently by Legends
22 Hospitality, Inc., in California during the period from August 21, 2021, through
23 the date Notice is mailed to the Class who worked at venues that were not covered
24 by a collective bargaining agreement that contains provisions that clearly
25 constitute waivers of employee rights to bring claims of statutory violations in
26 court as opposed to arbitration.

- 1 e. Wage Statement Class: All persons employed intermittently by Legends
2 Hospitality, Inc., in California during the period from October 3, 2021, through
3 the date Notice is mailed to the Class who worked at the Banc of California
4 Stadium, the Los Angeles Coliseum, SoFi Stadium, or YouTube Theater.
- 5 f. Labor Code § 351 Class: All persons employed by Legends Hospitality, Inc., in
6 California during the period from October 3, 2018, through the date Notice is
7 mailed to the Class who worked in positions, including but not limited to the
8 position of bartender, that receive tips on credit cards left by patrons at venues that
9 were not covered by a collective bargaining agreement that contains provisions
10 that clearly constitute waivers of employee rights to bring claims of statutory
11 violations in court as opposed to arbitration.

12 37. This action has been brought and may be properly maintained as a class action
13 pursuant to the provisions of California Code of Civil Procedure § 382 and other applicable law.

14 38. **Numerosity**: Code of Civil Procedure § 382: members of the Classes are so
15 numerous that their individual joinder is impracticable. The precise number of Class members and
16 their addresses are unknown to Intervenor. However, Intervenor is informed and believes, and
17 thereon alleges, that the number of Class Members exceeds 200 persons and can be obtained from
18 Defendants' records. Class Members may be notified of the pendency of this action by mail,
19 electronic mail, the Internet, or published notice.

20 39. **Existence of Predominance of Common Questions of Fact and Law**: Code of
21 Civil Procedure § 382: Common questions of law and fact exist as to all members of the Class.
22 These questions predominate over any questions effecting only individual members of the class.
23 These common factual and legal questions include:

24 (a) Whether Defendants violated Labor Code § 201 by not immediately paying
25 members of the Labor Code § 201 Class wages owed to them when laid off at the
26 conclusion of assignments.

27 (b) Whether Defendants' conduct in not paying members of the Labor Code § 201 Class
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1 immediately upon lay off was willful.

2 (c) Whether the failure of Defendants to direct members of the Rest Break Class to
3 take rest breaks gives rise to liability under Labor Code § 226.7 and the applicable
4 Wage Orders?

5 (d) Whether the failure of Defendants to explain to members of the Rest Break Class
6 that they are entitled to second rest breaks when working more than six hours but
7 less than eight hours gives rise to liability under Labor Code § 226.7 and the
8 applicable Wage Orders.

9 (e) Whether members of the Reimbursement Class are entitled to relief pursuant to
10 Labor Code § 2802 on account of the need for them to use their personal devices
11 to engage in work-related communications with Defendants.

12 (f) Whether Defendants' affirmative defenses, if any, raise any common issues of law
13 or fact as to Intervenor and the members of each Class as a whole

14 40. **Typicality:** Intervenor's claims are typical of the claims of the members of each
15 Class because Intervenor, as someone employed on an intermittent basis as a bartender by
16 Defendants, was repeatedly exposed to the same unlawful business practice as the members of the
17 classes. Intervenor sustained the same types of injuries and losses that the class members sustained.
18 Intervenor is subject to the same affirmative defenses as the members of the class.

19 41. **Adequacy:** Intervenor will adequately and fairly protect the interests of the
20 members of the Classes. Intervenor has no interest adverse to the interests of absent Class members.
21 Intervenor is represented by legal counsel who has substantial class action experience in civil
22 litigation and employment law.

23 42. **Superiority:** A class action is superior to other available means for fair and efficient
24 adjudication of the claims of the Classes and would be beneficial for the parties and the court. Class
25 action treatment will allow a large number of similarly situated persons to prosecute their common
26 claims in a single forum, simultaneously, efficiently, and without the unnecessary duplication of
27 effort and expense that numerous individual actions would require. The monetary amounts due to
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1 many individual Class members are likely to be relatively small, and the burden and expense of
2 individual litigation would make it difficult or impossible for individual members of the Class to
3 seek and obtain relief. A class action will serve an important public interest by permitting such
4 individuals to effectively pursue recovery of the sums owed to them. Further, class litigation
5 prevents the potential for inconsistent or contradictory judgments raised by individual litigation.

6 **FIRST CAUSE OF ACTION**

7 **FAILURE TO PAY WAGES TIMELY UPON CESSATION OF EMPLOYMENT**

8 **(By Intervenor, the Labor Code § 201 and § 203 Class Class Against All Defendants)**

9 43. Intervenor incorporates by reference all of the foregoing paragraphs of this
10 complaint as if fully alleged herein.

11 44. Intervenor and the other members of the Labor Code § 201 and § 203 Class were
12 employees of DEFENDANTS covered by Labor Code § 201 and § 203.

13 45. Labor Code § 201 provides: “(a) If an employer discharges an employee, the wages
14 earned and unpaid at the time of discharge are due and payable immediately. An employer who lays
15 off a group of employees by reason of the termination of seasonal employment in the curing,
16 canning, or drying of any variety of perishable fruit, fish or vegetables, shall be deemed to have
17 made immediate payment when the wages of said employees are paid within a reasonable time as
18 necessary for computation and payment thereof; provided, however, that the reasonable time shall
19 not exceed 72 hours, and further provided that payment shall be made by mail to any employee who
20 so requests and designates a mailing address therefor.”

21 46. At times relevant hereto, Intervenor and other members of the Labor Code § 201 and
22 § 203 Class were discharged by layoff by Defendants at the end of events to which they were
23 assigned by Defendants to work. Pursuant to Labor Code § 201, Intervenor and other members of
24 the Labor Code § 201 and § 203 Class were entitled upon each layoff they experienced, to
25 immediate payment of all wages earned and unpaid prior to each layoff. Defendant failed to pay
26 Intervenor and members of the Labor Code § 201 Class all wages earned and unpaid at the time of
27 each layoff they experienced during the relevant period in accordance with Labor Code § 201,
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1 paying them instead typically at least one week later. *See Smith v. Superior Court*, (2006) 39 Cal.
2 4th 77, 92 (releases from a period of employment or upon completion of an assignment qualify as
3 “discharges” under California law.)

4 47. Intervenor is informed and believes, and thereon alleges, that at all relevant times
5 within the applicable limitations period, Defendants maintained and continue to maintain a policy
6 and practice of not paying wages due under Labor Code § 201 and § 203 to employees intermittently
7 employed upon discharge from an assignment.

8 48. Defendants’ failure to timely pay Intervenor and other members of the Labor Code
9 § 201 and § 203 Class wages in accordance with Labor Code § 201 was willful. Defendants had the
10 ability to pay all wages earned by intermittently employed workers at the time of each layoff as
11 required by Labor Code § 201.

12 49. Pursuant to Labor Code § 203, Intervenor and other members of the Labor Code §
13 201 and § 203 Class are entitled to continuation of their wages, from the day their earned and unpaid
14 wages were due upon discharge until they were paid, up to a maximum of 30 days.

15 50. As a result of Defendants’ conduct, Intervenor and members of the Labor Code §
16 201 and § 203 Class have suffered damages in an amount, subject to proof, to the extent they were
17 not paid all continuation wages owed under Labor Code § 203.

18 51. Pursuant to Labor Code §§ 218 and 218.5, Intervenor and other members of the
19 Labor Code § 201 Class and the Pandemic Class are entitled to recover the full amount of their
20 continuation wages under Labor Code § 203, reasonable attorney’s fees and costs of suit. Pursuant
21 to Labor Code Section 218.6 or Civil Code Section 3287(a), Intervenor and other members of the
22 Class are entitled to recover prejudgment interest on the amount of their unpaid wages and unpaid
23 continuation wages.

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SECOND CAUSE OF ACTION

FAILURE TO PROVIDE LEGALLY COMPLIANT REST PERIODS
(By Intervenor and the Rest Break Class Against All Defendants)

52. Intervenor incorporates by reference all of the foregoing paragraphs of this complaint as if fully alleged herein.

53. At all relevant times, Intervenor and the other members of the Rest Break Class were employees of Defendants covered by Labor Code § 226.7 and Section 12 of the applicable IWC Wage Orders, including Wage Order 5-2001.

54. Pursuant to Labor Code § 226.7 and Section 12 of Wage Order 5-2001, Intervenor and the other members of the Rest Break Class were entitled to rest periods of at least 10 minutes for each four-hour period of work, or major fraction thereof, and one hour of additional pay for every day a required rest period was not provided.

55. Defendants failed to allow Intervenor and other members of the Rest Break Class to take rest periods in accordance with Labor Code § 226.7 and Section 12(A) of the applicable IWC Wage Orders, including Wage Order 5-2001.

56. Intervenor is informed and believes, and thereon alleges, that at all relevant times within the applicable limitations period, Defendants maintained policies and working conditions preventing members of the Rest Break Class from taking legally compliant rest breaks by restricting where they could take rest breaks and by providing them insufficient time to travel to and from workstations to the required break areas and take the 10 minute breaks required by law; and by not allowing them to simply leave their assigned workstations to take 10-minute rest periods for each four hours of work or major fraction thereof in accordance with Labor Code § 226.7 and Wage Order 5-2001.

57. Intervenor is informed and believes, and thereon alleges, that at all relevant times within the applicable limitations period, Defendants maintained and continue to maintain a policy or practice of failing to apprise members of the Rest Break Class who were going to be working at

1 an assignment for more than six hours, but less than eight hours, that they were entitled to two ten-
2 minute breaks during their shifts.

3 58. Defendants failed to provide Intervenor and other members of the Rest Break Class
4 the additional hour of pay required by Labor Code § 226.7 and Section 12(B) of Wage Order 5-
5 2001. Intervenor is informed and believes, and thereon alleges, that at all relevant times within the
6 applicable limitations period, Defendants maintained and continue to maintain a policy or practice
7 of not paying additional pay to employees for missed or non-compliant rest periods.

8 59. As a result of Defendants' unlawful conduct, Intervenor and other members of the
9 Rest Break Class have suffered damages in an amount, subject to proof, to the extent they were not
10 paid premiums owed for rest period violations

11 60. As a result of Defendant's unlawful conduct, Intervenor and other members of the
12 Class have suffered damages in an amount, subject to proof, to the extent they were not paid
13 additional pay owed for non-compliant rest periods.

14 61. Pursuant to Labor Code § 218, Intervenor and other members of the Rest Break Class
15 are entitled to recover the full amount of their unpaid additional pay for rest period violations.
16 Pursuant to Labor Code § 218.5, Intervenor and other members of the Rest Break Class are entitled
17 to recover their reasonable attorney's fees and costs of suit. Pursuant to Labor Code § 218.6 or
18 Civil Code § 3287(a), Intervenor and other members of the Rest Break Class are entitled to recover
19 prejudgment interest on the additional pay owed for rest period violations.

20 **THIRD CAUSE OF ACTION**

21 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

22 **(By Intervenor and the Reimbursement Class Against All Defendants)**

23 62. Intervenor incorporates by reference all of the foregoing paragraphs of this
24 complaint as if fully alleged herein.

25 63. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee
26 for all necessary expenditures or losses incurred by the employee in direct consequence of the
27 discharge of his or her duties."
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64. As part of the discharge their duties for Defendants, Intervenor and the other members of the Reimbursement Class were required and/or expected by Defendants to use their personal cell phones, computers and other devices for Defendants' business-related communications. However, Defendants did not pay for the expenses incurred as a result of Intervenor's and Class Members' use of their personal devices for business.

65. Intervenor and other members of the Reimbursement Class are entitled to reimbursement for these necessary expenditures, plus interest under Labor Code § 2802.

66. As a result of Defendants' violations of Labor Code § 2802, Defendants are also liable for attorneys' fees and costs under Labor Code § 2802(c). Intervenor, on behalf of himself and all other members of the Reimbursement Class, requests relief as described below.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE LEGALLY COMPLIANT WAGE STATEMENTS

(By Intervenor and the Wage Statement Class Against All Defendants)

67. Intervenor incorporates by reference all of the foregoing paragraphs of this complaint as if fully alleged herein.

68. Section 226(a) of the California Labor Code requires Defendant to accurately report all gross and net wages earned by Intervenor and the other members of the Wage Statement Class. Defendant has knowingly and intentionally failed to comply with Labor Code section 226(a) on each wage statement provided to Intervenor and the other members of the Wage Statement Class during pay periods in which Defendant failed to pay premium wages owed to Intervenor or a member of the proposed class.

69. As a consequence of Defendant's knowing and intentional failure to comply with Labor Code section 226(a), Intervenor and each Wage Statement Class member he seeks to represent are each entitled to actual damages or penalties not to exceed \$4,000 pursuant to Labor Code section 226(b), together with interest thereon and attorneys' fees and costs.

1 **FIFTH CAUSE OF ACTION**

2 **UNFAIR BUSINESS PRACTICES**

3 **(By Intervenor and All Classes Against All Defendants)**

4 70. Intervenor incorporates by reference all of the foregoing paragraphs of this
5 complaint as if fully alleged herein.

6 71. The unlawful conduct of Defendants alleged herein constitutes unfair competition
7 within the meaning of Business and Professions Code Section 17200. Due to its unlawful and unfair
8 business practices in violation of the Labor Code, Defendants have gained a competitive advantage
9 over other comparable companies doing business in the State of California that comply with their
10 obligations to compensate employees for all earned wages as required by law.

11 72. As a result of Defendants' unfair competition as alleged herein, Intervenor and other
12 members of the Class have suffered injury in fact and lost money or property. Intervenor and
13 members of the Class have been deprived of their rights to lawfully compliant rest periods,
14 reimbursement for business-related expenses; and/or timely payment of all earned wages due upon
15 termination of employment. In addition, members of the Labor Code § 351 Class are entitled to
16 gratuities from credit card transactions withheld by Defendants.

17 73. Pursuant to Business and Professions Code Section 17203, Intervenor and the other
18 members of the Classes are entitled to restitution of all wages and other monies owed and belonging
19 to them, including interest thereon, that Defendants wrongfully withheld from them and retained
20 for itself by means of its unlawful and unfair business practices.

21 74. Intervenor and the other members of the Classes are entitled to recover reasonable
22 attorneys' fees in connection with their unfair competition claims pursuant to Code of Civil
23 Procedure Section 1021.5, the substantial benefit doctrine and/or the common fund doctrine.
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1 **SIXTH CAUSE OF ACTION**

2 **CIVIL PENALTIES UNDER PAGA**

3 **(By Intervenor, Aggrieved Employees and the State of California Against Defendants)**

4 75. Intervenor incorporates by reference all of the foregoing paragraphs of this
5 complaint as if fully alleged herein.

6 76. At all times relevant to this action, Intervenor and other Aggrieved Employees were
7 “aggrieved employees” within the meaning of Labor Code Section 2699.

8 77. Defendants’ conduct as described herein, arising from Defendants’ failure to
9 immediately pay employees at the time of layoff in violation of Labor Code § 201, failure to provide
10 legally compliant rest periods in violation of Labor Code §§ 226.7 and the applicable IWC Wage
11 Orders, failure to reimburse for business expenses under Labor Code § 2802, failure to provide
12 accurate wage statements pursuant to Labor Code § 226, failure to provide suitable seating and
13 failure to comply with Labor Code § 351.

14 78. Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf of
15 himself and other current or former employees, to bring a civil action to recover civil penalties
16 pursuant to the procedures specified in Labor Code Section 2699.3.

17 79. Intervenor has complied with the procedures for bringing suit specified in Labor
18 Code Section 2699.3. By letter dated September 29, 2022, Intervenor gave written notice to the
19 Labor and Workforce Development Agency (“LWDA”) via its online filing system and by certified
20 mail to Defendants of the specific provisions of the Labor Code alleged to have been violated,
21 including the facts and theories to support the alleged violations. A true and correct copy of the
22 September 29, 2022, letter is attached hereto as **Exhibit A**. To date, more than 65 days after the
23 postmark date of September 29, 2022, the LWDA has not advised Intervenor that it intends to
24 investigate Intervenor’s allegations.

25 80. Pursuant to Labor Code Sections 2699(a) and (f), Intervenor and other Aggrieved
26 Employees are entitled to civil penalties for Defendants’ violations of the Labor Code and the
27 applicable Wage Orders of the Industrial Welfare Commission, including Wage Order 5-2001, in
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1 the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
2 violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each
3 subsequent violation. Pursuant to Labor Code Section 2699(i), 75% of the civil penalties recovered
4 shall be distributed to the LWDA, and 25% shall be distributed to the aggrieved employees.

5 81. Pursuant to Labor Code Section 2699(g), Intervenor is entitled to an award of
6 reasonable attorney's fees and costs in connection with his claims for civil penalties.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Intervenor on behalf of himself and all others similarly situated, pray
9 for relief and judgment against Defendant as follows:

10 **CLASS CERTIFICATION:**

- 11 1. An order that the action be certified as a class action;
12 2. An order that Intervenor be certified as the representative of the Classes;
13 3. An order that counsel for Intervenor be confirmed as Class counsel;

14 **ON THE FIRST CAUSE OF ACTION:**

- 15 1. Waiting Time Penalties pursuant to Labor Code Section 203, according to proof;
16 2. Prejudgment interest;

17 **ON THE SECOND CAUSE OF ACTION:**

- 18 1. Damages including, but not limited to, Labor Code § 226.7 remedies, owing on
19 account of the unavailability of required rest periods;
20 2. Prejudgment interest;

21 **ON THE THIRD CAUSE OF ACTION:**

- 22 1. Damages for unreimbursed business expenses.
23 2. Prejudgment interest;

24 **ON THE FOURTH CAUSE OF ACTION:**

- 25 1. Damages for inaccurate wage statements for each relevant pay period;
26 2. Prejudgment interest;

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ON THE FIFTH CAUSE OF ACTION:

1. Restitution of all unpaid wages and other monies, including gratuities, owed and belonging to members of the Classes that Defendants unlawfully withheld from them and retained for themselves;
3. Prejudgment interest;

ON THE SIXTH CAUSE OF ACTION:

1. Civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25% payable to aggrieved employees);
2. Costs;
3. Reasonable attorney's fees; and
4. Such other and further relief as this Court may deem just and proper.

ON ALL CAUSES OF ACTION:

1. Judgment in favor of Intervenor and the putative Classes and against Defendant;
2. Reasonable attorney's fees;
3. Costs of suit; and
4. Such other relief as the Court deems just and proper.

Dated: July 18, 2025

MOSS BOLLINGER LLP

By: 

Dennis F. Moss

Attorneys for Intervenor Scott Shuster

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DEMAND FOR JURY TRIAL

Intervenor demands a trial by jury for himself and the Classes on all claims so triable.

Dated: July 18, 2025

MOSS BOLLINGER LLP

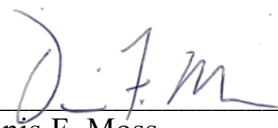
By: 
Dennis F. Moss
Attorneys for Intervenor Scott Shuster

EXHIBIT A

to

Complaint in Intervention



Moss Bollinger
LLP

DENNIS F. MOSS

310.982.2984/fax: 818.963.5954
dennis@mossbollinger.com

September 29, 2022

VIA PAGA ONLINE FILING

Secretary Natalie Palugyai
Labor & Workforce Development Agency
PAGA ADMINISTRATOR
1515 Clay Street, Ste. 801
Oakland, California 94612

**VIA U.S. CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Legends Hospitality LLC
c/o Agent for service of Process
CSC-Lawyers Incorporation Service
2710 Gateway Oaks Dr. suite 150n
Sacramento, CA 95833

Re: Notice pursuant to Labor Code Section 2699.3
Labor Code Private Attorneys General Act ("PAGA")

Employer: Legends Hospitality LLC

Employee: Scott Shuster, on behalf of himself and on behalf of all current and former intermittently employed California employees of Legends Hospitality, LLC ("Legends" or "Defendant") who during the one year period preceding the writing of this letter:

1. Have been subject to layoffs and were not paid immediately upon layoff. (Not applicable to layoffs at the conclusion of baseball stadium assignments per Labor Code § 201.8; or layoffs from those concert venue assignments (if there are any operated by Legends) where employees are enrolled in and routinely dispatched to employment through a hiring hall or other system of short-term employment established in accordance with a bona fide collective bargaining agreement that establishes the time limits for payment of wages to an employee who is discharged or laid off per Labor Code § 201.9);

2. Have been required to use their personal phones and/or their personal computers in connection with communications from and to Legends arising from their employment;
3. Have not been provided with seating in reasonable proximity to their work areas when they are not engaged in the active duties of their employment for use when the seats do not interfere with the performance of their duties;
4. Have not received all gratuities left for them by patrons on credit cards on the payday following the date the unpaid gratuities have been left for them; and
5. Have not been provided two ten-minute rest breaks during each four hours of work or major fraction thereof on shifts that have lasted more than 6 hours.

Dear Secretary Palugyai:

Pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* (“PAGA”), representative employee Scott Shuster (“Plaintiff”), on behalf of himself and all other similarly situated non-exempt employees who have worked in food and drink services at events in California venues operated by Legends Hospitality, LLC, alleges that Defendant violated the California Labor Code throughout the time Plaintiff worked for Defendant and within the one year prior to the mailing of this letter.

RELEVANT FACTS

During the relevant one year period before the date Plaintiff submitted this letter to the Labor & Workforce Development Agency (“LWDA”), Plaintiff worked for Defendant as a bartender primarily assigned to work at the Banc of California Stadium in Los Angeles, California. During that period he also occasionally worked for Defendant as a bartender at SoFi Stadium, YouTube Theatre, and the Los Angeles Coliseum in Los Angeles County, California, and at Angel Stadium in Anaheim California. He has worked for Legends since 2018.

Facts related to Labor Code §§ 201 and 203 Layoff Claims

Legends provides food and drink services at stadium, amphitheatre, arena and other venues throughout Northern and Southern California. A large complement of Legends employees work strictly on event dates at the scheduled events. They are intermittent employees, essentially day laborers working on days when there are stadium, amphitheatre or arena events, and not working on days when the venues where they work are “dark.” At the conclusion of events, at times, they are laid off for several weeks, if not longer, until they are returned to work for another assignment.

During the year prior to the sending of this letter, when assignments were concluded and employees were laid off without new assignments scheduled for a week, weeks or longer,

Legends did not pay wages owed immediately at the time of layoff, but rather waited for the next regular payday, typically at least one week in arrears. In Plaintiff's case, when working events at Banc of California Stadium, Plaintiff's workweeks ran from Wednesday to Tuesday. He was paid wages earned during a workweek one week after the workweek ended irrespective of whether he had experienced a layoff and had no assignments scheduled for a week or more.

Facts related to Labor Code § 2802 Claims

During the year prior to the sending of this letter, Plaintiff and other Legends intermittent employees were required to use personal cell phones and/or personal computers to work for Legends. For example, Legends assigned them to work events by communicating via text, phone calls, and emails, conducted training over the internet, and had employees confirm their fitness for duty over the internet. Plaintiff and other intermittently employed Legends employees communicated their availability for and acceptance of assignments by phone, text or email. Legends communicated changes in schedule and cancellations of assignments via texts and emails. The collective bargaining agreement between Legends and the union that represents the Banc of California Stadium bargaining unit that includes Plaintiff and his coworkers expressly contemplates communications by Legends to its intermittently employed workforce by telephone and email.

Additionally, Plaintiff and others he works with routinely must use use their personal cell phones out of necessity during events to contact supervisors and others for a myriad of reasons including the replenishment of supplies and issues arising with POS systems. Legends does not provide communication devices for these purposes.

Legends does not provide phones or computers to the intermittently employed workers nor reimburses them for the costs they incur on account of their use of such devices.

Given the nature of the workforces at Legends' other venues in California, workforces that would not necessarily frequent the venues where they work on other than event days, Legends' need to make assignments, have assignments accepted and confirmed, and to make adjustments to assignments at those venues, Plaintiff is informed and believes and thereon alleges, that the intermittently employed workers at Legends' other venues in California are similarly required to use their personal phones and personal computers, and are similarly not reimbursed for their expenses in doing so.

Facts related to Seating Claim

During the year prior to the mailing of this letter, when serving customers and preparing food or beverages, Plaintiff and other intermittent employees who work events at some Legends venues

must stand to perform their work tasks. When there are lulls in their work, there are frequently no seats in reasonable proximity to where they work available for them to use.

Facts related to Gratuity Claim

During the year prior to the mailing of this letter, patrons of Legends venues have been permitted to leave gratuities by credit card for employees, including Plaintiff. At times during the last year, Legends did not pay the tipped employees all the gratuities that patrons paid through credit card transactions on the next regular pay day following a pay period in which patrons have left gratuities for employees through credit card transactions.

Facts related to Rest Break Claim

During the year prior to the mailing of this letter, the collective bargaining agreement that covers the employment of Plaintiff and others employed by Legends to work at the Banc of California Stadium provided that all eight-hour employees shall be given two ten minute paid breaks, and all six hour employees shall receive one 15-minute break. Frequently, Plaintiff and his colleagues work more than six hours and less than eight hours. The collective bargaining agreement does not provide for a second break for these employees. The collective bargaining agreement contemplates that a category of employee called “stand lead” will advise employees as to when to take their breaks. During the year prior to the sending of this letter, employees with authority over Plaintiff and others regularly failed to direct them as to when to take breaks and, as a consequence, both first and second breaks were routinely not provided. Plaintiff experienced the lack of breaks at venues not covered by the Banc of California Stadium CBA;, and therefore is informed and believes that Legends employees throughout the State were routinely not provided with the rest breaks required by the law.

PLAINTIFF’S CLAIMS

Failure to Immediately Pay Laid Off Employees

Defendant was the employer of Plaintiff within the meaning of Labor Code § 201. Labor Code § 201 requires immediate payment of final wages to employees upon *discharge*. Given the text of Labor Code § 201 with its exception for *layoffs* in certain industries, the *layoff* exceptions in other industries memorialized in Labor Code §§ 201.5, 201.7, 201.8, 201.9, the DLSE’s long held view regarding Labor Code § 201 that requires immediate payment upon layoff: (“3.2.2 Layoff. If an employee is laid off without a specific return date within the normal pay period, the wages earned up to and including the lay off date are due and payable in accordance with Section 201. (*Campos v. EDD* (1982) 132 Cal.App.3d 961; 183 Cal.Rptr. 637; see also O.L.1993.05.04 and O.L. 1996.05.30). If there is a return date within the pay period and the employee is scheduled to return to work, the wages may be paid at the next regular pay day),” the settled

meaning of the term “layoff,” and the reasoning of the California Supreme Court in *Smith v. Superior Court (L'Oreal)* (2006) 39 Cal. 4th 77, during the year prior to the mailing of this letter, Plaintiff and other persons intermittently employed by Legends experienced discharges in the form of layoffs and should have been paid immediately when laid off. Such immediate payment as required by Labor Code § 201 was not forthcoming, and Defendant did not pay waiting time penalties pursuant to Labor Code § 203.

As Defendant failed to timely pay final wages upon each discharge as required by Labor Code § 201, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation. Further, as Defendant failed to pay waiting time penalties for each such violation as required by Labor Code § 203, Defendant is liable for additional penalties of \$100 per pay period for the first violation of Labor code 203 within the statutory period, and \$200 per pay period for each additional violation.

Failure to Reimburse Business Expenses

Pursuant to California Labor Code Section 2802:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer...

As set forth above, during the one-year period preceding the date of this letter, Plaintiff and other intermittently employed Legends employees were required to use their personal cell phones and personal computers in direct consequence of the discharge of their duties. Defendant did not reimburse Plaintiff and other similarly situated employees for any portion of the expense Plaintiff and other similarly situated employees incurred for the use of their personal cell phones and personal computers.

As Defendant failed to reimburse Plaintiff and other similarly situated employees for business expenses they incurred, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation.

Violation of the IWC Wage Order 5's Suitable Seating Requirements

As set forth above, Plaintiff contends that, during the one year period preceding this letter, at times, aggrieved employees of Legends such as him, who are required to stand while providing services to patrons, are not provided with suitable seating within reasonable proximity of where they work for use by them when there are lulls in the work they perform while standing.

Section 14 of the applicable Industrial Welfare Commission's Wage Orders, including Wage Order 5, provide in relevant part:

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Legends' violations of Section 14 of the applicable Wage Orders constitute a violation of Labor Code Section 1198, which prohibits employment under conditions of labor that violate the IWC Wage Orders.

As Defendant failed to provide suitable seating to Plaintiff and those similarly situated employees in compliance with Section 14 of the applicable Wage Orders, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation.

Violation of Labor Code § 351

Pursuant to California Labor Code Section 351, on the payday following a pay period in which patrons paid gratuities to Legends' employees in a credit card transaction, Legends was required to pay the gratuities to the tipped employees. As set forth above, during the year prior to the sending of this letter, at times, Legends has failed to timely pay all such gratuities to their intended recipients, including Plaintiff and other similarly situated employees.

As Defendant violated Section 351, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation.

Failure to Make Available Rest Periods

California law requires that employers must authorize and permit non-exempt employees to take a paid rest period that must, insofar as practicable, be taken in the middle of each work period. The rest period is based on the total hours worked daily and must be at the minimum rate of a net ten consecutive minutes for each four-hour work period, or major fraction thereof. In *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. *Id.* at 1029

During the year prior to the sending of this letter, Defendant did not inform Plaintiff and similarly situated intermittent employees of their rights under California law to second rest periods when they work more than 6 hours but less than 8 hours. Further, Defendant had a practice of not allowing intermittent employees to take rest breaks without someone in authority directing them to take a break. During the year preceding the mailing of this letter, Plaintiff and

other intermittently employed employees were consistently not provided with the necessary direction regarding rest breaks; and therefore were unable to take breaks. When these violations occurred, Defendant did not pay rest period premium wages, as required by California Labor Code sections 512, 226.7 and Section 12 of the applicable Wage Orders, including Wage Order 5-2001.

As Defendant failed to provide all rest periods required by California law and did not pay the required break premiums when such violations occurred, Defendant is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation.

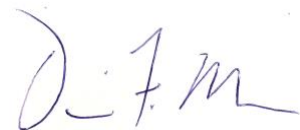
Civil Penalties

At all times relevant to this action, Plaintiff and other employees who were subject to the above violations of their rights were “aggrieved employees” within the meaning of Labor Code Section 2699. Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf of himself and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in Labor Code Section 2699.3.

As a result of the foregoing, Defendant is liable for civil penalties as provided for by California law. Consequently, Plaintiff and all other similarly employed persons who worked for Defendant in California are entitled to recover all penalties permitted by the Labor Code and penalties provided for under California law, including but not limited to Labor Code § 2698 *et seq.*

Plaintiff requests the agency to investigate the above allegations and provide notice of the investigation and findings pursuant to PAGA’s provisions. Alternatively, Plaintiff requests that the agency inform him if it does not intend to investigate these violations so that he may file a lawsuit with respect to the allegations discussed in this letter, to the extent Defendant does not cure those violations that are curable under PAGA. Thank you for your immediate attention to this matter. If you have any questions, please do not hesitate to contact me at (310) 982-2984.

Sincerely,

A handwritten signature in blue ink, appearing to read "D.F. Moss", is written over a light blue horizontal line.

Dennis F. Moss

MOSS BOLLINGER, LLP