

KINGSLEY & KINGSLEY, APC

ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
LIANE KATZENSTEIN LY, Esq. (SBN 259230)
liane@kingsleykingsley.com
JESSICA BULAON, Esq. (SBN 340749)
jessi@kingsleykingsley.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

FILED

4/4/2022 8:43 AM

Clerk of the Napa Superior Court

By: Tosha Deluna, Deputy

ABRAMSON LABOR GROUP

WILLIAM ZEV ABRAMSON, Esq. (SBN 289387)
Wza@abramsonlabor.com
3580 Wilshire Blvd., Ste 1260
Los Angeles, CA 90010-2513
Tel: (213) 493-6300, Fax (213) 382-4083

Attorneys for Plaintiff and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF NAPA

MAYRA MORALES, an individual, on
behalf of herself and others similarly situated

PLAINTIFF,

v.

EUROSTAMPA CALIFORNIA LLC; and
DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO. 22CV000095

**[Amended as a matter of right, pursuant to
Labor Code § 2699.3(a)(2)(C)]**

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Pay Wages and/or Overtime Under Labor Code §§ 510, 1194, 1194.2, and 1199
2. Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512
3. Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7
4. Failure to Reimburse Expenses Pursuant to Labor Code § 2802
5. Violation of Labor Code § 226(a)
6. Penalties Pursuant to Labor Code § 203
7. Violation of Business & Professions Code § 17200
8. Penalties Pursuant to Labor Code §2699, et seq.

1 Plaintiff MAYRA MORALES, an individual, on behalf of herself, all others similarly
2 situated, and as an “aggrieved employee” under Labor Code Private Attorneys General Act of
3 2004, §2699, *et seq.* (hereafter “PAGA”), complains of Defendant EUROSTAMPA
4 CALIFORNIA LLC (“Defendant”) and each of them, as follows:

5 **I.**

6 **INTRODUCTION**

7 1. This is a Class and Representative Action, pursuant to Code of Civil Procedure §
8 382 and Labor Code §2699, *et seq.*, on behalf of Plaintiff and a Proposed Class defined as:

9 All non-exempt employees who are employed or have been
10 employed by EUROSTAMPA CALIFORNIA LLC, in the State of
11 California who worked one or more pay periods since four (4) years
12 prior to the filing of this action to the present plus any additional
13 time during which the statutes of limitation for the causes of action
herein were tolled pursuant to Emergency Rule 9 of the California
Rules of Court, the ‘Emergency Rules Related to COVID-19’.
14 (“Proposed Class”)

15 2. Any limitations period referenced in this complaint is extended pursuant to
16 Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the
17 California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of
18 limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020
19 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action
20 that exceed 180 days are tolled from April 6, 2020 until October 1, 2020.”] Any reference to the
21 relevant time period or statute of limitations referenced in this complaint is extended into the past
by the number of days in which this tolling was in effect.

22 3. For at least four (4) years prior to the filing of this action continuing to the present,
23 Defendant has had a consistent policy of failing to pay wages and/or overtime to all Proposed Class
24 members when they work more than eight (8) hours in a day or forty (40) hours in a week. Plaintiff
25 and the Proposed Class were not properly compensated at the appropriate rate of pay because
26 Defendant failed to include all applicable rates and compensation when calculating Plaintiff and
27 all Proposed Class members’ regular rate of pay for the purpose of determining the correct
28 overtime rate in pay periods where they were paid other compensation/rates and were also paid

overtime. As such, Plaintiff and the Proposed Class were paid at an overtime rate less than the rate required under California law. Additionally, Defendant maintained an unlawful policy of automatically deducting (“auto-deduct”) for meal periods regardless of whether Defendant actually provided the opportunity to take a compliant meal period. This auto-deduct policy resulted in the unlawful withholding of wages and/or overtime for time actually worked. As described, Defendant fails to pay Plaintiff and the Proposed Class for each and every hour worked.

4. From at least four (4) years prior to the filing of this action and continuing to the present, Defendant failed to apprise Plaintiff and the Proposed Class of their rights associated with meal periods and failed to provide compliant meal periods. Defendant has had a consistent policy of failing to provide Plaintiff and the Proposed Class compliant meal breaks that occurred after the first five hours of each shift and failing to pay such employees one (1) hour of pay at the employees’ regular rate of compensation for each workday that the first meal period was not provided within the first (5) hours of the shift. In addition to failing to provide meal periods altogether, Defendant maintained a policy of automatically deducting 30 minutes from each shift as described above. This “auto-deduct” policy was unlawful and did not account for whether the meal periods were actually provided including whether Plaintiff and the Proposed Class were able to take their meal periods at all, whether they were able to take timely meal periods, whether they took meal periods of less than thirty minutes, and whether they were free from interruption for the full 30 minutes. Defendant also had a consistent policy of paying meal period premiums at the base rate and not the blended rate, when meal period premiums are provided, in violation of *Ferra v. Loews Hollywood Hotel, LLC*¹ and Labor Code §§ 226.7 and 512.

5. From at least four (4) years prior to the filing of this action and continuing to the present, Defendant failed to apprise Plaintiff and the Proposed Class of their rights associated with rest periods and failed to provide compliant rest periods. Defendant has had a consistent policy of

¹ Very recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee’s base hourly rate.

1 failing to provide all required rest periods of at least ten (10) minutes per four (4) hours worked or
2 major fraction thereof and failing to pay such employees one (1) hour of pay at the employee's
3 regular rate of compensation for each workday that the rest period was not provided, as required
4 by California state wage and hour laws. As discussed above, *Ferra* requires the rest period
5 premium payments must include the hourly value of any nondiscretionary earnings (such as a
6 nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate.
7 Defendant has had a consistent policy of paying rest period premiums at the base rate and not the
8 blended rate when rest premiums are provided, in violation of Labor Code § 226.7.

9 6. For at least four (4) years prior to the filing of this action and continuing to the
10 present, Defendant has failed to reimburse Plaintiff and the Proposed Class for business-related
11 expenses. Defendant has failed to reimburse Plaintiff and the Proposed Class for the cost of using
12 their own Wi-Fi and personal cell phones for business purposes. These are both necessary business
13 expenditures under California law and Defendant failed to reimburse the Proposed Class.

14 7. For at least one (1) year prior to the filing of this action continuing to the present,
15 Defendant has failed to comply with Labor Code § 226(a). Plaintiff and the Proposed Class are
16 issued wage statements in violation of Labor Code §226(a)(2) and do not accurately show the
17 number of total hours worked at each applicable hourly rate in effect during the pay period and the
18 corresponding number of hours worked at each hourly rate by Plaintiff and the Proposed Class in
19 violation of Labor Code §226(a)(9). Further, Plaintiff and the Proposed Class are issued wage
20 statements that do not include meal and rest premiums as a result of the claims alleged above and
21 when they do, they are not the accurate rate.

22 8. For at least three (3) years prior to the filing of this action continuing to the present,
23 Defendant has failed to pay all wages due at the time of termination or resignation to Plaintiff and
24 the Proposed Class.

25 9. Plaintiff, on behalf of herself and all Proposed Class members brings this action
26 pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802;
27 Wage Order 1-2001; and California Code of Regulations, Title 8, Section 11010, seeking unpaid
28 wages/overtime, meal and rest period penalties, unreimbursed expenses, accurate itemized wage

1 statements, other penalties, injunctive and other equitable relief, and reasonable attorneys' fees
2 and costs.

3 10. Plaintiff, on behalf of herself and all Proposed Class members, pursuant to Business
4 & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and disgorgement of
5 all benefits Defendant enjoyed from its unlawful conduct as described herein.

6 11. For at least one (1) year prior to the date of the letter sent to the Labor Workforce
7 and Development Agency ("LWDA") and Defendant giving notice of the claims pursuant to
8 PAGA and continuing to the present, and as extended by Emergency Rule 9 referenced in
9 paragraph 2 above, Defendant has violated Labor Code provisions, as detailed below, giving rise
10 to a claim pursuant to PAGA. Plaintiff, on behalf of herself and all aggrieved employees presently
11 or formerly employed by Defendant during the liability period as defined in her PAGA notice
12 letter, brings this representative action pursuant to Labor Code §2699, et seq. seeking penalties for
13 Defendant's violation of Labor Code Sections 201, 202, 203, 226(a), 226.7, 510, 512, 1194,
14 1194.2, 1199, and 2802. A true and correct copy of Plaintiff's notice letter is attached hereto as
15 Exhibit "1".

16 **II.**

17 **JURISDICTION AND VENUE**

18 12. This Court has subject matter jurisdiction over all causes of action asserted herein
19 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure
20 § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive
21 of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the
22 State of California or is subject to adjudication in the courts of the State of California.

23 13. This Court has personal jurisdiction over Defendant because Defendant has caused
24 injuries in the County of Napa and the State of California through their acts, and by their violation
25 of the California Labor Code, California state common law, and California Business & Professions
26 Code § 17200, et seq.

27 14. Venue as to each Defendant is proper in this judicial district, pursuant to Code of
28 Civil Procedure § 395. Defendant operates within California and do business within Napa County.

1 The unlawful acts alleged herein have a direct effect on Plaintiff and all Proposed Class members
2 within the State of California and the county of Napa.

3 15. This case should be classified as complex according to Rule 3.400 of the California
4 Rules of Court, and assigned to a complex litigation judge and department, as it will involve
5 substantial documentary evidence, a large number of witnesses, and is likely to involve extensive
6 motion practice raising difficult or novel issues that will be time-consuming to resolve and would
7 require substantial post judgment judicial supervision.

8 16. Plaintiff files this amended complaint adding a claim for penalties under Labor
9 Code §2699, *et seq.* as a matter of right. (*see* Labor Code § 2699.3(a)(2)(C).)

10 **III.**

11 **PARTIES**

12 **A. PLAINTIFF**

13 17. Plaintiff MAYRA MORALES is a resident of California.

14 18. Plaintiff and all Proposed Class members, were regularly required to:

- 15 a. Work without being paid for all hours at the appropriate rate;
 - 16 b. Work without being provided compliant meal periods;
 - 17 c. Work without being provided rest periods;
 - 18 d. Work without being reimbursed for their necessary business expenses; and,
 - 19 e. Work without being provided itemized wage statements in writing that
- 20 accurately report all hours worked and the corresponding rate of pay for all hours and include
21 premiums as a result of the claims alleged above and when they do, they are not at the accurate
22 rate.

23 19. Defendant willfully failed to compensate Plaintiff and all Proposed Class members
24 for wages at the termination of their employment with Defendant.

25 20. As a result of this conduct, Defendant has engaged in unfair competition and
26 unlawful business practices.

27 21. Plaintiff and all aggrieved employees, as defined in her notice letter to the LWDA,
28 are “aggrieved employees” within the meaning of Labor Code § 2699, *et seq.* (*see* Labor Code

§2699(c.)

B. DEFENDANTS

22. Defendant EUROSTAMPA CALIFORNIA LLC are believed to be an Ohio corporation operating within the State of California. Defendant EUROSTAMPA CALIFORNIA LLC'S corporate address is believed to be 2545 Napa Valley Corporate Dr, Suite A Napa, CA 94558. Upon information and belief, Defendant employed Plaintiff and similarly situated persons as hourly employees within California. Defendant has done and do business throughout the State of California.

23. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

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

25. Furthermore, Defendants acted in all respects as the employers or joint employers of the Proposed Class. Defendants, and each of them, exercised control over the wages, hours or working conditions of the Proposed Class, or suffered or permitted the Proposed Class to work, or engaged, thereby creating a common law employment relationship, with the Proposed Class. Therefore, Defendants, and each of them, employed or jointly employed the Proposed Class.

///

1 **IV.**

2 **FACTUAL BACKGROUND**

3 26. Plaintiff and the Proposed Class are, and at all times pertinent hereto, have been
4 classified as non-exempt employees by Defendant. Defendant hires employees who work as
5 hourly employees who are paid on an hourly basis.

6 27. Upon information and belief, Plaintiff and the Proposed Class are covered by
7 California Industrial Welfare Commission Occupational Wage Order No. 1-2001 (Title 8 Cal.
8 Code of Regs. § 11010).

9 28. On a regular and consistent basis, Plaintiff and the Proposed Class members were
10 not paid at the proper rate of compensation for all hours worked. Plaintiff and Proposed Class
11 members were not properly compensated at the correct overtime rate of pay for hours in excess of
12 eight (8) in one day and/or forty (40) hours in one week because Defendant failed to include all
13 rates of pay and all compensation when calculating Plaintiff and all Proposed Class members'
14 regular rate of pay for the purposes of determining the correct overtime rate in pay periods where
15 they were paid additional compensation or more than one rate and were also paid overtime. As
16 such, Plaintiff and the Proposed Class were paid at a rate less than the rate required under
17 California law. Additionally, Defendant maintained an unlawful policy of automatically deducting
18 ("auto-deduct") for meal periods regardless of whether Defendant actually provided the
19 opportunity to take a compliant meal period. This auto-deduct policy resulted in the unlawful
20 withholding of wages and/or overtime for time actually worked. As described, Defendant fails to
21 pay Plaintiff and the Proposed Class for each and every hour worked.

22 29. Plaintiff and all Proposed Class members have been forced by Defendant to work
23 over five (5) hours in one day without being provided a thirty (30) minute uninterrupted meal break
24 and not being compensated one (1) hour of pay at their regular rate of compensation for each
25 workday that a meal period was not provided or provided after five (5) hours, all in violation of
26 California labor laws, regulations, and Industrial Welfare Commission Wage Orders. In addition
27 to failing to provide meal periods altogether, Defendant maintained a policy of automatically
28 deducting 30 minutes from each shift as described above. This "auto-deduct" policy was unlawful

1 and did not account for whether the meal periods were actually provided including whether
2 Plaintiff and the Proposed Class were able to take their meal periods at all, whether they were able
3 to take timely meal periods, whether they took meal periods of less than thirty minutes, and
4 whether they were free from interruption for the full 30 minutes. Defendant has had a consistent
5 policy of paying meal period premiums at the base rate and not the blended rate when meal period
6 premiums are provided, in violation of *Ferra* and Labor Code §§ 226.7 and 512. Defendant also
7 failed to inform Plaintiff and the members of the Proposed Class of their right to take compliant
8 meal periods by way of a lawful policy.

9 30. For at least four (4) years prior to the filing of this action and continuing to the
10 present, Defendant has had a consistent policy of failing to provide all required rest periods of at
11 least ten (10) minutes per four (4) hours worked or major fraction thereof and failing to pay such
12 employees one (1) hour of pay at the employee's regular rate of compensation for each workday
13 that the rest period was not provided, as required by California state wage and hour laws.
14 Defendant has had a consistent policy of paying rest period premiums at the base rate and not the
15 blended rate, when rest break premiums are provided, as required.

16 31. On a regular and consistent basis, Plaintiff and the Proposed Class have not been
17 properly reimbursed for business expenses necessary for the completion of their job duties.
18 Defendant has failed to reimburse Plaintiff and the Proposed Class members the for the cost of
19 using their personal cell phones and Wi-Fi when sent home to work remotely, necessary for them
20 to discharge their duties. Defendant required that Plaintiff and the Proposed Class use and pay for
21 their own Wi-Fi, download and pay for phone applications on their personal cell phones, be
22 available by cell phone, and answer/use their personal cell phones consistently to perform their job
23 duties. These cell phones and Wi-Fi were not provided by Defendant and Defendant failed to
24 reimburse Plaintiff and the Proposed Class for the costs associated with these necessary business
25 expenditures in violation of Labor Code § 2802.

26 32. For at least one (1) year prior to the filing of this action continuing to the present,
27 Defendant has failed to comply with Labor Code § 226(a). Plaintiff and the Proposed Class are
28 issued wage statements in violation of Labor Code §226(a)(2) and do not accurately show the

1 number of total hours worked at each applicable hourly rate in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate by Plaintiff and the Proposed Class in
3 violation of Labor Code §226(a)(9). Further, Plaintiff and the Proposed Class are issued wage
4 statements that do not include accurate meal and rest period premiums as a result of the claims
5 alleged above.

6 33. Defendant willfully failed to pay wages and compensation, when Plaintiff and all
7 Proposed Class members quit or were discharged. This failure was willful, without legal
8 justification, and interfered with Plaintiff's and Class Members' rights.

9 34. As a result of the acts alleged herein, Defendant violated Labor Code §2699, *et seq.*

10 V.

11 CLASS ACTION ALLEGATIONS

12 35. Plaintiff brings this action on behalf of herself and all others similarly situated as a
13 Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent a
14 proposed class composed of and defined as follows:

15 All non-exempt employees who are employed or have been
16 employed by EUROSTAMPA CALIFORNIA LLC, in the State of
17 California who worked one or more pay periods since four (4) years
18 prior to the filing of this action to the present plus any additional
19 time during which the statutes of limitation for the causes of action
20 herein were tolled pursuant to Emergency Rule 9 of the California
21 Rules of Court, the 'Emergency Rules Related to COVID-19'.
22 ("Proposed Class")

23 36. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court to
24 amend or modify the class description with greater specificity, by division into subclasses, or by
25 limitation to particular issues.

26 37. This action has been brought and may properly be maintained as a class action
27 under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined
28 community of interest in the litigation and the Proposed Class are easily ascertainable.

26 **A. NUMEROSITY**

27 38. The potential members of the Proposed Class as defined are so numerous that
28 joinder of all the members of the Proposed Class is impracticable. While the precise number of

1 Proposed Class members has not been determined at this time, Plaintiff is informed and believes
2 that Defendant currently employs, and during the relevant time periods employed over 50 members
3 of the Proposed Class.

4 39. Plaintiff alleges that Defendant's employment records would provide information
5 as to the number and location of all Proposed Class members. Joinder of all members of the
6 Proposed Class is not practicable.

7 **B. COMMONALITY**

8 40. There are questions of law and fact common to the Proposed Class that predominate
9 over any questions affecting only individual Proposed Class members. These common questions
10 of law and fact include, without limitation:

11 a. Whether Defendant failed to pay wages and/or overtime compensation as
12 required by the Labor Code and Wage Orders under Labor Code §§ 510, 1194, 1194.2, and 1199;

13 b. Whether Defendant violated Labor Code § 226.7, 512 and IWC Wage Order
14 1-2001 or other applicable IWC Wage Orders by failing to inform Plaintiff and the Proposed Class
15 of their right to take meal periods and by way of a lawful policy and failing to provide required
16 meal periods throughout the term of employment and/or failing to compensate said employees one
17 (1) hour of wages at their regular rate of compensation in lieu of meal periods;

18 c. Whether Defendant violated Labor Code § 226.7 and IWC Wage Order 1 -
19 2001 or other applicable IWC Wage Orders, by failing to inform Plaintiff and the Proposed Class
20 of their right to take rest periods and failing to provide all required rest periods throughout the term
21 of employment and failing to compensate said employees one (1) hours wages in lieu of rest
22 periods;

23 d. Whether Defendant violated Labor Code § 2802 and/or Wage Order 1-2001
24 or other applicable IWC Wage Orders by failing to reimburse out of pocket expenses for the cost
25 of using their personal cell phones and Wi-Fi;

26 e. Whether Defendant violated Labor Code § 226(a) by failing to provide
27 accurate itemized wage statements that accurately report the total hours worked and the applicable
28 rates for all hours worked and the corresponding number of hours worked at each hourly rate by

1 the employee and premiums;

2 f. Whether Defendant violated §§ 201-203 of the Labor Code by failing to pay
3 compensation due and owing at the time that any Proposed Class member's employment with
4 Defendant terminated;

5 g. Whether Defendant violated § 17200, *et seq.* of the Business & Professions
6 Code by engaging in the acts previously alleged; and

7 h. Whether Plaintiff and the members of the Proposed Class are entitled to
8 equitable relief pursuant to Business & Professions Code § 17200, *et seq.*

9 i. Whether Defendant violated Labor Code § 2699, *et seq.* by engaging in the
10 acts alleged herein.

11 **C. TYPICALITY**

12 41. The claims of Plaintiff are typical of the claims of the Proposed Class. Plaintiff and
13 all members of the Proposed Class sustained injuries and damages arising out of and caused by
14 Defendant's common course of conduct in violation of laws, regulations that have the force and
15 effect of law, and statutes as alleged herein.

16 **D. ADEQUACY OF REPRESENTATION**

17 42. Plaintiff will fairly and adequately represent and protect the interests of the
18 members of the Proposed Class.

19 43. Counsel who represent Plaintiff and the Proposed Class are competent and
20 experienced in litigating large employment class actions.

21 **E. SUPERIORITY OF CLASS ACTION**

22 44. A class action is superior to other available means for the fair and efficient
23 adjudication of this controversy. Individual joinder of all Proposed Class members is not
24 practicable, and questions of law and fact common to the Proposed Class predominate over any
25 questions affecting only individual members of the Proposed Class. Each member of the Proposed
26 Class has been damaged and is entitled to recovery by reason of Defendant's illegal policy and/or
27 practice of failing to pay all wages due, failing to provide meal and rest periods, failing to
28 reimburse expenses, failing to provide accurate itemized wage statements, and failing to pay all

1 wages upon resignation or termination.

2 45. Class action treatment will allow those similarly situated persons to litigate their
3 claims in the manner that is most efficient and economical for the parties and the judicial system.
4 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
5 action that would preclude its maintenance as a class action.

6 **VI.**

7 **FIRST CAUSE OF ACTION**

8 **PLAINTIFF ON BEHALF OF HERSELF AND THE PROPOSED CLASS**

9 **FAILURE TO PAY WAGES AND/OR OVERTIME UNDER**

10 **LABOR CODE §§ 510, 1194, 1194.2, AND 1199**

11 46. Plaintiff, on behalf of herself and the Proposed Class, realleges and incorporates by
12 reference all previous paragraphs.

13 47. Labor Code §§ 1194 and 1199 require an employer to pay its employees the legal
14 minimum wage and the legal overtime compensation applicable. Labor Code § 510(a) states that
15 eight (8) hours of labor constitutes a day's work and any work in excess of eight (8) hours in one
16 workday and any work in excess of forty (40) hours in any one workweek must be compensated
17 at the rate of no less than one and one-half times the regular rate of pay for an employee. Any
18 work in excess of twelve (12) hours in one day shall be compensated at the rate of no less than
19 twice the regular rate of pay. California law also requires that any compensation must be included
20 in the regular rate of pay for the purposes of determining the correct overtime and double-time
21 rates.

22 48. Plaintiff and the Proposed Class were forced to work on a regular and consistent
23 basis without receiving compensation for all hours worked at proper overtime rate when they were
24 working more than eight (8) hours in one day or forty (40) hours in one week.

25 49. Plaintiff and the Proposed Class were not properly compensated at the appropriate
26 overtime rate of pay because Defendant failed to include all compensation and all rates of pay
27 when calculating Plaintiff and all Proposed Class members' regular rate for the purpose of
28 determining the correct overtime rate in pay periods where they were paid additional compensation

1 and/or multiple rates of pay and were also paid overtime. As such, Plaintiff and the Proposed
2 Class were paid at a regular rate less than the rate required under California law for all work in
3 excess of eight (8) hours in a workday and/or forty (40) hours in a workweek.

4 50. Additionally, Defendant maintained an unlawful policy of automatically deducting
5 (“auto-deduct”) for meal periods regardless of whether Defendant actually provided the
6 opportunity to take a compliant meal period. This auto-deduct policy resulted in the unlawful
7 withholding of wages and/or overtime for time actually worked. As described, Defendant fails to
8 pay Plaintiff and the Proposed Class members for each and every hour worked.

9 51. By their policy of failing to include all rates and compensation when calculating
10 the regular rate of pay and failing to pay for all hours worked, Defendant willfully violated the
11 provisions of Labor Code §§ 510, 1194, 1194.2, and 1199.

12 52. As a result of the unlawful acts of Defendant, Plaintiff and the Proposed Class
13 members have been deprived of wages and/or overtime in amounts to be determined at trial, and
14 are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and
15 costs.

16 **VII.**

17 **SECOND CAUSE OF ACTION**

18 **PLAINTIFF ON BEHALF OF HERSELF AND THE PROPOSED CLASS**

19 **FAILURE TO PROVIDE MEAL PERIODS PURSUANT TO**

20 **LABOR CODE § 226.7 AND LABOR CODE § 512**

21 53. Plaintiff, on behalf of herself and the Proposed Class, realleges and incorporates by
22 reference all previous paragraphs.

23 54. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of
24 compensation for each meal period the employer fails to provide. Employees are entitled to a first
25 meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the
26 first five (5) hours of the shift.

27 55. Defendant failed to maintain a policy informing Plaintiff and the Proposed Class of
28 these rights.

1 56. Plaintiff and the Proposed Class consistently worked shifts over five (5) hours.
2 Defendant failed to provide Plaintiff and the Proposed Class with proper meal periods of not less
3 than thirty (30) minutes as required by the Labor Code during the relevant time period.

4 57. In addition to failing to provide meal periods altogether, Defendant maintained a
5 policy of automatically deducting 30 minutes from each shift as described above. This “auto-
6 deduct” policy was unlawful and did not account for whether the meal periods were actually
7 provided including whether Plaintiff and members of the Proposed Class were able to take their
8 meal periods at all, whether they were able to take timely meal periods, whether they took meal
9 periods of less than thirty minutes, and whether they were free from interruption for the full 30
10 minutes.

11 58. Defendant has had a consistent policy of failing to pay Plaintiff and the Proposed
12 Class one (1) hour of pay at the employees’ regular rate of compensation for each workday that
13 the first meal period was not provided within the first (5) hours of the shift. Very recently, on July
14 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the
15 formula for calculating the one extra hour of bonus pay that employees are owed if an employer
16 fails to provide a compliant meal period or rest break. Specifically, the Court held that those bonus
17 payments must include the hourly value of any nondiscretionary earnings (such as a
18 nondiscretionary bonuses, commissions, etc.), and cannot simply be paid at an employee’s base
19 hourly rate. Here, when meal periods are provided, Defendant has had a consistent policy of
20 paying meal period premiums at the base rate and not the appropriate blended rate in violation of
21 Labor Code §§ 226.7 and 512.

22 59. Pursuant to Labor Code § 226.7, Plaintiff and the Proposed Class are entitled to
23 damages in an amount equal to one (1) hour of wages at the regular rate of compensation per
24 missed meal break, per day in a sum to be proven at trial.

25 ///

26 ///

1 **VIII.**

2 **THIRD CAUSE OF ACTION**

3 **PLAINTIFF ON BEHALF OF HERSELF AND THE PROPOSED CLASS**

4 **FAILURE TO ALLOW REST PERIODS PURSUANT TO**

5 **LABOR CODE § 226.7**

6 60. Plaintiff, on behalf of herself and the Proposed Class, realleges and incorporates by
7 reference all previous paragraphs.

8 61. Labor Code § 226.7 requires an employer to pay an additional hour (1) of
9 compensation for each rest period the employer fails to provide. Employees are entitled to a paid
10 ten (10) minute rest break for every four (4) hours worked (or major fraction thereof).

11 62. Defendant failed to maintain an accurate policy informing Plaintiff and the
12 Proposed Class of their rights with respect to rest periods.

13 63. Defendant failed to provide Plaintiff and the Proposed Class with rest breaks of not
14 less than ten (10) minutes as required by the Labor Code during the relevant time period.
15 Defendant consistently failed to schedule rest breaks for Plaintiff and members of the Proposed
16 Class. Plaintiff and members of the Proposed Class were not able to take rest periods.

17 64. Further, Plaintiff and the Proposed Class were not compensated with one (1) hour
18 of wages for each missed rest period as required by Labor Code § 226.7. Very recently, on July
19 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the
20 formula for calculating the one extra hour of bonus pay that employees are owed if an employer
21 fails to provide a compliant meal period or rest break. Specifically, the Court held that those bonus
22 payments must include the hourly value of any nondiscretionary earnings (such as a
23 nondiscretionary bonuses, commissions, piece rate, etc.), and cannot simply be paid at an
24 employee's base hourly rate. Here, when rest period premiums are provided, Defendant has had
25 a consistent policy of paying rest period premiums at the base rate and not the blended rate in
26 violation of Labor Code §§ 226.7 and 512.

27 65. Pursuant to Labor Code § 226.7, Plaintiff and the Proposed Class are entitled to
28 damages in an amount equal to one (1) hour of wages per missed rest period, in a sum to be proven

1 at trial.

2 **IX.**

3 **FOURTH CAUSE OF ACTION**

4 **PLAINTIFF ON BEHALF OF HERSELF AND THE PROPOSED CLASS**

5 **FAILURE TO REIMBURSE EXPENSES PURSUANT TO**

6 **LABOR CODE § 2802**

7 66. Plaintiff, on behalf of herself and the Proposed Class, realleges and incorporates by
8 reference all previous paragraphs.

9 67. Labor Code § 2802 provides that an employer shall indemnify his or her employee
10 for all necessary expenditures or losses incurred by the employee in direct consequence of the
11 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
12 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
13 unlawful.

14 68. Defendant has failed to reimburse Plaintiff and the Proposed Class the for the cost
15 of using their personal cell phones and Wi-Fi when sent home to work remotely, necessary for
16 them to discharge their duties.

17 69. Defendant required that Plaintiff and the Proposed Class use and pay for their own
18 Wi-Fi, download and pay for phone applications on their personal cell phones, be available by cell
19 phone, and answer/use their personal cell phones consistently to perform their job duties. These
20 cell phones and Wi-Fi were not provided by Defendant and Defendant failed to reimburse Plaintiff
21 and the Proposed Class for the costs associated with these necessary business expenditures in
22 violation of the Labor Code.

23 70. As a result of the unlawful acts of Defendant, Plaintiff and the Proposed Class have
24 been deprived of reimbursement in the amounts to be determined at trial, and are entitled to
25 recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

26 ///

X.

FIFTH CAUSE OF ACTION

PLAINTIFF ON BEHALF OF HERSELF AND THE PROPOSED CLASS

VIOLATION OF LABOR CODE § 226(A)

71. Plaintiff, on behalf of herself and the Proposed Class, realleges and incorporates by reference all previous paragraphs.

72. Labor Code §226(a) requires employers to furnish accurate itemized wage statements in writing that show total hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (Labor Code §§ 226(a)(2) and (9) respectively.) Defendant furnishes Plaintiff and the Proposed Class members with itemized wage statements that do not accurately show total hours worked or all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

73. Further, Plaintiff and the Proposed Class are issued wage statements that do not include accurate meal and rest premiums as a result of the claims alleged above.

74. Defendant's failure to provide accurate itemized wages statements according to Labor Code § 226(a) was all done on a regular and consistent basis.

75. An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorneys' fees.

///

///

1 **XI.**

2 **SIXTH CAUSE OF ACTION**

3 **PLAINTIFF ON BEHALF OF HERSELF AND THE PROPOSED CLASS**

4 **WAITING TIME PENALTIES UNDER LABOR CODE § 203**

5 76. Plaintiff, on behalf of herself and the Proposed Class, realleges and incorporates by
6 reference all previous paragraphs.

7 77. Numerous members of the Proposed Class including the Plaintiff are no longer
8 employed by Defendant. They were either fired or quit Defendant's employ.

9 78. Defendant's failure to pay wages, as alleged above was willful in that Defendant
10 knew wages to be due but failed to pay them, thus entitling Plaintiff and the Proposed Class to
11 penalties under Labor Code § 203, which provides that an employee's wages shall continue as a
12 penalty until paid for a period of up to thirty (30) days from the time they were due.

13 79. Defendant has failed to pay Plaintiff and others a sum certain at the time of
14 termination or within seventy-two (72) hours of their resignation, and have failed to pay those
15 sums for thirty (30) days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiff and
16 the Proposed Class are entitled to a penalty in the amount of Plaintiff's and the Proposed Class
17 members' daily wage multiplied by thirty (30) days.

18 **XII.**

19 **SEVENTH CAUSE OF ACTION**

20 **PLAINTIFF ON BEHALF OF HERSELF AND THE PROPOSED CLASS**

21 **UNFAIR COMPETITION PURSUANT TO BUSINESS & PROFESSIONS CODE § 17200**

22 80. Plaintiff, on behalf of herself and the Proposed Class, realleges and incorporates by
23 reference all previous paragraphs.

24 81. This is a Class Action for Unfair Business Practices. Plaintiff, on behalf of herself,
25 on behalf of the general public, and on behalf of the Proposed Class, bring this claim pursuant to
26 Business & Professions Code § 17200, *et seq.* The conduct of Defendant as alleged in this
27 Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general
28 public, and the Proposed Class. Plaintiff seeks to enforce important rights affecting the public

1 interest within the meaning of Code of Civil Procedure § 1021.5.

2 82. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204,
3 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
4 appropriate equitable relief.

5 83. Business & Profession Code § 17200, *et seq.* prohibits unlawful and unfair business
6 practices.

7 84. California’s wage and hour laws express fundamental public policies. Providing
8 employees with proper wages and compensation are fundamental public policies of this State and
9 of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce
10 vigorously minimum labor standards, to ensure that employees are not required or permitted to
11 work under substandard and unlawful conditions, and to protect law-abiding employers and their
12 employees from competitors who lower their costs by failing to comply with minimum labor
13 standards.

14 85. Defendant has violated statutes and public policies as alleged herein. Through the
15 conduct alleged in this Complaint, Defendant has acted contrary to these public policies, have
16 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair
17 business practices in violation of Business & Profession Code § 17200, *et seq.*, depriving Plaintiff,
18 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
19 guaranteed to all employees under law.

20 86. Defendant’s conduct, as alleged hereinabove, constitutes unfair competition in
21 violation of § 17200, *et seq.* of the Business & Professions Code.

22 87. Defendant, by engaging in the conduct herein alleged, either knew or in the exercise
23 of reasonable care, should have known that the conduct was unlawful. As such it is a violation of
24 § 17200, *et seq.* of the Business & Professions Code.

25 88. As a proximate result of the above-mentioned acts of Defendant, Plaintiff and
26 others similarly situated have been damaged in a sum as may be proven.

27 89. Unless restrained, Defendant will continue to engage in the unlawful conduct as
28 alleged above. Pursuant to the Business & Professions Code, this court should make such orders

or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by Defendant, its agents, or employees, of any unlawful or deceptive practices prohibited by the Business & Professions Code, and/or, including but not limited to, restitution and disgorgement of profits which may be necessary to restore Plaintiff and members of the proposed Class the money Defendant has unlawfully failed to pay.

XIII.

EIGHTH CAUSE OF ACTION

PENALTIES PURSUANT TO LABOR CODE §2699, ET SEQ.

90. Plaintiff, on behalf of herself and all aggrieved employees, realleges and incorporates by reference all previous paragraphs.

91. As a result of the acts alleged above and specifically incorporated herein, Plaintiff seeks penalties under Labor Code §2699, *et seq.* use of Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802; Wage Order 1-2001; and California Code of Regulations, Title 8, Section 11010, which call for civil penalties.

92. For each such penalty, Plaintiff and the aggrieved employees are entitled to penalties in an amount to be shown at trial, subject to the following formula:

a. \$100 for the initial violation per employee per pay period.

b. \$200 for each subsequent violation per employee per pay period.

93. These penalties shall be allocated seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to the affected employees.

94. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff uploaded a notice letter to the LWDA² and mailed a letter by certified mail to Defendant's entity addresses, which are 2545 Napa Valley Corporate Dr, Suite A Napa, CA 94558 and 1440 Seymour Ave Cincinnati, OH 45237, as proscribed by the Code on January 27, 2022, describing Defendant's conduct in violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802. (*see* Exhibit "1".) Plaintiff also mailed her notice letter by certified mail to National Registered Agents, Inc., the

² Plaintiff electronically filed a PAGA Claim Notice to the LWDA, via the State of California Labor and Workforce Development Agency / Department of Industrial Relations website (<https://dir.tfaforms.net/308>).

1 listed Agent for Service of Process for Defendant on the California Secretary of State website³ on
2 January 27, 2022. (*see also* Exhibit “1”.) Plaintiff also obtained an e-filing confirmation from the
3 LWDA confirming receipt of the notice, a true and correct copy of which is attached hereto as
4 Exhibit “2”.

5 95. As no letter evidencing the LWDA’s intention to investigate was received by
6 Plaintiff’s Counsel within sixty-five (65) calendar days, Plaintiff is entitled to commence a civil
7 action as though the LWDA had not chosen to investigate pursuant to Labor Code
8 §2699.3(a)(2)(A).

9 96. Plaintiff will also provide the LWDA with a filed-stamped copy of the First
10 Amended Class and Representative Action Complaint immediately.

11 **RELIEF REQUESTED**

12 **WHEREFORE**, Plaintiff prays for the following relief:

13 1. For compensatory damages in the amount of unpaid wages and/or overtime not paid
14 to Plaintiff and each Proposed Class Member from at least four (4) years prior to the filing of this
15 action to the present as may be proven;

16 2. For compensatory damages in the amount of Plaintiff’s and each Proposed Class
17 members’ hourly wage for each meal period missed or taken late from at least four (4) years prior
18 to the filing of this action to the present as may be proven;

19 3. For compensatory damages in the amount of Plaintiff’s and each Proposed Class
20 members’ hourly wage for each rest period missed or taken late from at least four (4) years prior
21 to the filing of this action to the present as may be proven;

22 4. For compensatory damages in the amount of Plaintiff’s and each Proposed Class
23 members’ unreimbursed out of pocket expenses as a requirement of employment;

24 5. For penalties pursuant to Labor Code § 226(e) for violation of Labor Code § 226(a)
25 in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurs and one
26 hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding
27 an aggregate penalty of four thousand dollars (\$4,000);

28 ³ <https://businesssearch.sos.ca.gov/>

6. For penalties pursuant to Labor Code § 203 for all employees who were terminated or resigned equal to their daily wage times thirty (30) days;

7. An award of prejudgment and post judgment interest;

8. An order enjoining Defendant and its agents, servants, and employees, and all persons acting under, in concert with, or for it from providing Plaintiff with proper wages and/or overtime, meal periods, rest periods, unreimbursed expenses, accurate itemized wage statements, and wages upon termination/resignation pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, 2802, and IWC 1-2001;

9. For restitution for unfair competition pursuant to Business & Professions Code § 17200, *et seq.*, including disgorgement or profits, in an amount as may be proven;

10. For penalties under Labor Code §2699, *et seq.* for Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, 2802, and Wage Order 1-2001;

11. An award providing for payment of costs of suit;

12. An award of attorneys' fees; and

13. Such other and further relief as this Court may deem proper and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

DATED: April 4, 2022

KINGSLEY & KINGSLEY, APC

By: 

Liane Katzenstein Ly

Jessi Bulaon

Attorneys for Plaintiff MAYRA MORALES and the Proposed Class

EXHIBIT "1"

KINGSLEY & KINGSLEY

| L A W Y E R S |

January 27, 2022

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
Via Electronic Submission: <https://dir.tfaforms.net/308>

EUROSTAMPA CALIFORNIA LLC
2545 Napa Valley Corporate Dr, Suite A
Napa, CA 94558
Via Certified Mailing No.: 7020 0640 0002 1443 2319

EUROSTAMPA CALIFORNIA LLC
1440 Seymour Ave
Cincinnati, OH 45237
Via Certified Mailing No.: 7020 0640 0002 1439 8073

EUROSTAMPA CALIFORNIA LLC
c/o Agent for Service of Process
National Registered Agents, Inc.
330 N Brand Blvd Ste 700
Glendale, CA 91203
Via Certified Mailing No.: 7020 0640 0002 1439 8134

Re: MAYRA MORALES v. EUROSTAMPA CALIFORNIA LLC
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents MAYRA MORALES (“Plaintiff”) and a proposed group of current and former employees working for EUROSTAMPA CALIFORNIA LLC (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of herself and the State of California as well as on behalf of a group of aggrieved employees defined as: All non-exempt employees who are employed or have been employed by EUROSTAMPA CALIFORNIA LLC, in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”).

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

January 27, 2022

Page 2 of 4

Any limitations period referenced in this letter is extended pursuant to Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 16 1, 2020.”] Any reference to the relevant time period or statute of limitations referenced in this letter is extended into the past by the number of days in which this tolling was in effect.

Defendant has violated Labor Code §§ 510, 1194, 1194.2, and 1199. Labor Code §§ 1194 and 1199 require an employer to pay its employees the legal minimum wage and the legal overtime compensation applicable. Labor Code § 510(a) states that eight (8) hours of labor constitutes a day’s work and any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek must be compensated at the rate of no less than one and one-half times the *regular rate of pay* for an employee. Any work in excess of twelve (12) hours in one day shall be compensated at the rate of no less than twice the *regular rate of pay*. California law also requires that any compensation must be included in the regular rate of pay for the purpose of determining the correct overtime and double-time rates.

Defendant has had a consistent policy of failing to pay wages and/or overtime to Plaintiff and all aggrieved employees. Plaintiff and the aggrieved employees were not properly compensated at the appropriate rate of pay because Defendant failed to include Plaintiff’s and the aggrieved employees’ full compensation and rates or pay when calculating their regular rate for the purpose of determining the correct overtime rate in pay periods where they were paid additional compensation and were also paid overtime. As such, Plaintiff and the aggrieved employees were paid at a regular rate less than the rate required under California law.

Additionally, Defendant maintained an unlawful policy of automatically deducting (“auto-deduct”) for meal periods regardless of whether Defendant actually provided the opportunity to take a compliant meal period. This auto-deduct policy resulted in the unlawful withholding of wages and/or overtime for time actually worked. As described, Defendant fails to pay Plaintiff and the aggrieved employees for each and every hour worked.

Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of compensation for each meal period the employer fails to provide. Employees are entitled to a first meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the first five (5) hours of the shift. Pursuant to Labor Code § 226.7(c), if an employer fails to provide an employee with a lawful meal period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that a thirty (30) minute uninterrupted meal period was not provided, was not provided in full, or was not provided in a timely manner.

Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with meal periods and failed to provide compliant meal periods. Defendant has had a consistent policy

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

January 27, 2022

Page 3 of 4

of: (1) failing to provide Plaintiff and the aggrieved employees compliant meal periods; and (2) failing to pay such employees one (1) hour of pay at the employees' regular rate of compensation for each workday that the complaint meal period was not provided.

In addition to failing to provide meal periods altogether, Defendant maintained a policy of automatically deducting 30 minutes from each shift as described above. This "auto-deduct" policy was unlawful and did not account for whether the meal periods were actually provided including whether Plaintiff and the aggrieved employees were able to take their meal periods at all, whether they were able to take timely meal periods, whether they took meal periods of less than thirty minutes, and whether they were free from interruption for the full 30 minutes.

Very recently, on July 15, 2021, in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for calculating the one extra hour of premium pay that employees are owed if an employer fails to provide a compliant meal period or rest break. Specifically, the Court held that those premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Here, when meal premiums are provided, Defendant has had a consistent policy of paying meal period premiums at the base rate and not the blended rate in violation of Labor Code §§ 226.7 and 512.

Defendant failed to apprise Plaintiff and the aggrieved employees of their rights associated with rest periods and failed to provide all required ten (10) minute rest periods. Pursuant to Labor Code § 226.7 and Wage Order 1-2001, Defendant is required to provide Plaintiff and the aggrieved employees with rest breaks of not less than ten (10) minutes per four (4) hour work period, or major fraction thereof. Defendant failed to provide Plaintiff and the aggrieved employees with compliant rest periods. Further, Plaintiff and the aggrieved employees were not compensated with one (1) hour of wages for each missed rest period as required by Labor Code § 226.7. As discussed above, *Ferra* requires the rest period premium payments must include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses), and cannot simply be paid at an employee's base hourly rate. Defendant has had a consistent policy of paying rest period premiums at the base rate and not the blended rate when rest premiums are provided, in violation of Labor Code § 226.7.

Labor Code § 2802 provides that 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, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful. Defendant has failed to reimburse Plaintiff and aggrieved employees for the cost of using their personal cell phones and Wi-Fi when sent home to work remotely, necessary for them to discharge their duties. Defendant required that Plaintiff and the aggrieved employees use and pay for their own Wi-Fi, download and pay for phone applications on their personal cell phones, be available by cell phone, and answer/use their personal cell phones consistently to perform their job duties. These cell phones and Wi-Fi were not provided by Defendant and Defendant failed to reimburse

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

January 27, 2022

Page 4 of 4

Plaintiff and the aggrieved employees for the costs associated with these necessary business expenditures in violation of Labor Code § 2802.

Defendant also engaged in a practice of failing to provide accurate itemized wage statements in violation of Labor Code § 226(a), which requires that every employer shall, semimonthly or at the time of each payment of wages, furnish each employee an accurate itemized statement in writing showing a number of specific items, including all hours worked and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Here, Defendant has failed to furnish accurate itemized wage statements that include all hours worked by the employee and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee under Labor Code §§ 226(a)(2) and (9). Further, Plaintiff and all aggrieved employees are issued wage statements that do not include accurate meal and rest premiums as a result of the claims alleged above.

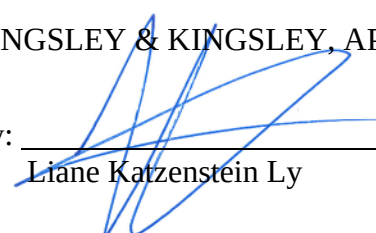
Labor Code § 203 provides that if “an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

Here, Plaintiff and all aggrieved employees were not paid all wages due upon their separation from Defendant’s employ. As such, Plaintiff is an aggrieved employee and Defendant failed to pay Plaintiff and all aggrieved employees all wages due at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter in violation of Labor Code §203.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802 with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 
Liane Katzenstein Ly

LKL/km

CC: 1. Abramson Labor Group, 3580 Wilshire Blvd Ste 1260, Los Angeles, CA 90010-2513 via Electronic Mail Transmission: wza@abramsonlabor.com; dani@abramsonlabor.com

EXHIBIT "2"



State of California

Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Liane

Your Last Name *

Ly

Firm Name (if any) *

Kingsley & Kingsley, APC



(Enter "in pro per" if you are representing yourself)

Your Email Address *

service@kingsleykingsley.c

Your Street Name, Number and Suite/Apt *

16133 Ventura Blvd., Suite

Your Mobile Phone Number

8189908300

Your City *

Encino

Your Work Phone Number

Your State *

California



Your Zip/Postal Code *

91436

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Mayra Morales

Plaintiff/Aggrieved Employee Occupation *

non-exempt employee

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...



Employer Name *

EUROSTAMPA CALIFORNIA LLC

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

Employer City *

2545 Napa Valley Corporate Dr, Suite A

Napa

Employer State *

California

Employer Zip/Postal Code *

94558

Employer Industry *

Other

Employer Industry for "Other" *

Printing and Related Supp

Add additional defendants

☒ Add any entity other than an individual☐ Add an individual/sole proprietor employer

Additional Employer Information (Corporation/General Partnership)

Employer Entity Type

Please select...

Employer Name *

EUROSTAMPA CALIFORNIA LLC

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

1440 Seymour Ave

Employer City *

Cincinnati

Employer State *

Ohio

Employer Zip/Postal Code *

45237

Employer Industry *

Other

Employer Industry for "Other" *

Printing and Related Supp

Additional Employer Information (Corporation/General Partnership)

[Remove](#)

Employer Entity Type

Please select...

Employer Name *

EUROSTAMPA CALIFORNIA LLC

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

330 N Brand Blvd Ste 700

Employer City *

Glendale

Employer State *

California

Employer Zip/Postal Code *

91203

Employer Industry *

Other

Employer Industry for "Other" *

Printing and Related Supp

[Add Additional Employers](#)

Notice General Information

Estimated Number of Employees Impacted by Violations *

50

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☒ Minimum Wage
- ☒ Overtime
- ☒ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☒ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☐ Other

Child Labor – Specify Ages

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Eric

Billing Last Name *

Kingsley

Billing Email *

service@Kingsleykingsley.com

Billing Phone

8189908300

Billing Street Name, Number and Suite/Apt *

16133 Ventura Blvd., Suite 1200

Billing City *

Encino

Billing State *

California

Billing Zip/Postal Code *

91436

Credit Card Type *



Credit Card Number *



CVV Number *



Credit Card Expiration Month *



mm

Credit Card Expiration Year *



yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

 LWDA Letter - ...ornia LLC.pdf

Other Attachment – (if any) (must be a .pdf)

 No file chosen[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

[Previous Page](#)

[Submit](#)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Thursday, January 27, 2022 8:15 AM
To: Service Email
Subject: Thank you for submission of your PAGA Case.

External Email!

1/27/2022

LWDA Case No. LWDA-CM-864930-22
Law Firm : Kingsley & Kingsley, APC
Plaintiff Name : Mayra Morales
Employer: EUROSTAMPA CALIFORNIA LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=04%7C01%7CKimberly%40kingsleykingsley.com%7C3334462c6b2c4c62653e08d9e1b022a1%7C121a7875dbeb4c0fb25c5baf6c6ac7a5%7C0%7C0%7C637788968908200269%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000&data=4qAY%2FJmoNjzzjWye8wtP6eLmeIUJxanxyLmp%2B%2BVWIMA%3D&reserved=0

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Thursday, January 27, 2022 8:15 AM
To: Service Email
Subject: State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation

External Email!

Thank you for your payment.

Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-864930-22

Order Number: ORD-000150106

Total:\$75.00

Card Type: 

Date: 1/27/2022

Billing Information

Name: Eric Kingsley

Email: service@kingsleykingsley.com

Billing Address:

16133 Ventura Blvd., Suite 1200

Encino, California

91436