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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 5/19/2022 3:19 PM
By: Stephanie Mendez, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MONTEREY**

KAREN LARA, an individual;

Plaintiff,

v.

SHAOGUO BUFFET INC, a California
corporation doing business as Sakura Buffet;
SHAOGUO FENG, an individual; VIVIAN
DOE (DOE 1) and DOES 2 through 25,
inclusive,

Defendants.

Case No.: 22CV001390

Unlimited Jurisdiction

COMPLAINT FOR:

1. Race Discrimination
2. Harassment Based on Gender
3. Retaliation
4. Failure to Take All Reasonable Steps to Prevent Discrimination and Retaliation
5. Wrongful Termination in Violation of Public Policy
6. Failure to Provide Meal and Rest Periods
7. Failure to Maintain Accurate Time Records
8. Failure to Provide Accurate Itemized Wage Statement
9. Waiting Time Penalties
10. Violation of Labor Code Sect. 351
11. Unfair Competition
12. Civil Penalties Under PAGA Violations

DEMAND FOR JURY TRIAL

Plaintiff KAREN LARA is informed and believes and thereon alleges:

PARTIES

1. Plaintiff KAREN LARA ("Plaintiff"), an individual, is a competent female adult.

1 2. Plaintiff, at all times relevant as alleged herein, was a resident of the County of
2 Monterey and employee of SHAOGUO BUFFET INC, a California corporation and
3 SHAOGUO FENG, inclusive, (collectively “Defendants”).

4 3. Plaintiff is informed and believes and on that basis alleges that Defendant
5 SHAOGUO BUFFET INC., is and at all relevant times hereto was, a California corporation
6 with its principal place of business located in the County of Monterey, California, and is
7 authorized to engage in business in the State of California.

8 4. Plaintiff is informed and believes and on that basis alleges that Defendant
9 SHAOGUO FENG is an individual who resides in in the County of Monterey, California.
10 According to the California Secretary of State records, Defendant SHAOGUO FENG is an
11 officer, director, and the agent for service of process of Defendant SHAOGUO BUFFET INC.

12 5. Plaintiff is informed and believes and on that basis alleges that Defendant
13 VIVIAN DOE is an individual who resides in in the County of Monterey, California.
14 Defendant VIVIAN DOE was at all times herein mentioned, a “manager” within the meaning
15 of Government Code section 12926(t), related regulations, and case law, because of which
16 SHAOGUO BUFFET INC., are vicariously and strictly liable for wrongful conduct towards
17 Plaintiff.

18 6. Plaintiff is ignorant of the true names and/or capacities of the persons named as
19 DOES 2 through 25, inclusive, and therefore sues them by such fictitious names. Plaintiff
20 will amend this Complaint to assert the true names and capacities when ascertained. Except
21 as otherwise alleged herein, Plaintiff is informed and believes, and thereon alleges, each of
22 the defendants sued as DOES 2 through 25, inclusive, is legally responsible for the damages
23 caused to Plaintiff as alleged herein.

24 7. Whenever in this Complaint reference is made to any act or omission of
25 Defendants, such act or omission shall be deemed the act or omission of each Defendant,
26 acting individually, jointly, and severally.

27 8. Whenever in this Complaint reference is made to any act or omission of a
28 corporate Defendant, such allegation shall be deemed to mean that corporate Defendant, its

1 officers, directors, agents, employees, and representatives did or authorized such act or
 2 omission while actively engaged in the management, direction and control of the affairs of
 3 that corporate defendant, and while acting within the course and scope of their agency and
 4 employment.

5 **JURISDICTION AND VENUE**

6 9. The monetary value of Plaintiff's claims exceeds \$25,000.00. The amount in
 7 controversy herein is within the jurisdiction of this Court.

8 10. The Court has jurisdiction over this action under FEHA, the UCL, and the
 9 Labor Code.

10 11. Plaintiff alleges on information and belief that Defendants were and are
 11 companies, entities, and individuals authorized to conduct and are conducting substantial,
 12 systematic, and continuous business transactions in the County of Monterey.

13 12. The acts, omissions, damages, and injury that form the basis of this lawsuit
 14 were sustained in the County of Monterey.

15 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

16 13. Plaintiff has exhausted all administrative remedies by the timely filing of her
 17 DFEH complaint on January 5, 2022. On January 5, 2022, Plaintiff received her right-to-sue
 18 letter from the Fair Employment and Housing Act ("FEHA"). The exhaustion of her
 19 administrative remedies were performed within three years of the events alleged herein.

20 14. Pursuant to Cal. Gov't Code § 12965(d)(2), Plaintiff's time to commence a civil
 21 action under the FEHA expires "one year from the date of the right-to-sue notice by the
 22 Department of Fair Employment and Housing."

23 **FACTUAL ALLEGATIONS**

24 15. Plaintiff was employed by Defendants in approximately July 2021 until
 25 approximately October 9, 2021 as a server. Plaintiff's hourly wage at the time of her
 26 separation was \$15.00. Plaintiff's daily duties included greeting customers, bussing tables,
 27 cleaning tables, serving drinks to customers, and cleaning the restaurant. At all times,
 28 Plaintiff was a devoted and loyal employee who performed her duties to Defendants' satisfaction.

1 16. Plaintiff's manager Vivian Doe and Plaintiff's supervisors uttered racial slurs at
2 Plaintiff. Instead of calling Plaintiff by her name or simply saying "come here" Defendants,
3 including Vivian DOE, would tell Plaintiff "Hey Mexican come here" or sometimes refer to
4 Plaintiff as "dirty Mexican". At one point, Plaintiff overheard her supervisor refer to one of
5 her co-worker Jose as "Basura", which translates to "trash" in Spanish. Plaintiff stood up and
6 opposed the discrimination and harassment she experienced.

7 17. Defendants permitted non-Hispanic employees to arrive to work early and they
8 were permitted to eat at the tables inside the restaurant. Plaintiff was forced to eat outside in
9 the back of the store right next to the trash bins.

10 18. Defendants constantly berated Plaintiff, criticizing Plaintiff's appearance by
11 accusing her and other female Hispanic co-workers that they looked like prostitutes or
12 strippers.

13 19. Defendants retaliated against Plaintiff and demanded that she turnover all tips
14 she received from customers. Defendants embarrassed Plaintiff when they inspected her apron
15 and pockets on the floor in front of customers. Plaintiff opposed this theft.

16 20. Thereafter, Defendants implemented an unlawful tip pooling policy in which
17 Defendant's managers and supervisors, including Vivian DOE, were compensated. The policy
18 was unfair and unreasonable in that Defendants set up arbitrary rules to deduct tips from
19 employees who are in the chain of service penalized Plaintiff and her coworkers by docking
20 the gratuity they earn.

21 21. Plaintiff complained to Defendants about health and safety violations she
22 observed at the restaurant or those that customers informed Plaintiff about. Plaintiff told
23 Defendants that a customer had found a roach in the food. Plaintiff also reported unclean
24 silverware placed for use by customers. These concerns were ignored by Defendants.

25 22. After Plaintiff complained about the unlawful taking of her tips by Defendants,
26 raised objections to the unlawful tip pooling policy, and after she raised concerns over the
27 health and safety issues, Plaintiff was disciplined.

28 23. Defendants further retaliated against her by cutting her hours.

 24. On or around October 9, 2021, Defendants retaliated against Plaintiff by

1 unlawfully terminating her in front of all its customers. Plaintiff was required to turn in her
2 uniform shirt off in front of the customers, causing Plaintiff further embarrassment.

3 25. Plaintiff is Hispanic/Latino. Plaintiff is a woman. Plaintiff complained of
4 unlawful actions by Defendants.

5 26. Defendants did not permit Plaintiff to take the 30 minute lunch break, nor did
6 she waive her breaks.

7 27. Defendants did not permit Plaintiff to take 10-minute rest breaks timely, or at
8 all.

9 **FIRST CAUSE OF ACTION**

10 **RACE DISCRIMINATION**

11 **(Violation of FEHA Govt Code Sec. 12900, et. seq.)**

12 **(Against SHAOGUO BUFFET and SHAOGUO FENG)**

13 28. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through
14 27 above as though fully set forth below.

15 29. Defendants' conduct, as alleged, violated FEHA, Government Code section
16 12900, et seq., and defendants committed unlawful employment practices, including by the
17 following bases for liability:

18 a. Discharging, refusing to retain, and/or employ, and/or otherwise discriminating
19 against plaintiff, in whole or in part on the basis of plaintiff's race, national origin, and/or
20 color, in violation of Government Code section 12940(a);

21 b. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
22 on the basis of plaintiff's race, national origin, and/or color, in violation of Government Code
23 section 12940(j);

24 c. Failing to take all reasonable steps to prevent discrimination and harassment based
25 on race, in violation of Government Code section 12940(k);

26 d. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA
27 and/or opposing defendants' failure to provide such rights, in violation of Government Code
28 section 12940(h).

30. As a proximate result of defendants' willful, knowing, and intentional discrimination against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and other employment benefits.

31. As a proximate result of defendants' willful, knowing, and intentional discrimination against plaintiff, plaintiff has suffered humiliation, emotional distress, and physical and mental pain and anguish, all to his damage in a sum according to proof.

32. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

33. Defendants' misconduct was committed intentionally, in a malicious, despicable, oppressive, fraudulent manner, entitling plaintiff to punitive damages against defendants.

SECOND CAUSE OF ACTION

HARASSMENT BASED ON GENDER

(Violation of Gov't Code § 12955(a), (d))

(Against All Defendants)

34. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 33 above as though fully set forth below.

35. At all times relevant herein, the actions of Defendants, as described in this Complaint, constitute unlawful harassment on the basis of Plaintiff's sex and/or gender, sexual in violation of Government Code § 12955. Such harassment by Defendants created a hostile, intimidating, and oppressive work environment for Plaintiff, whereby the conditions of her employment were adversely altered. Moreover, the harassment impeded Plaintiff's progress and the enjoyment of her employment.

36. Defendants knew, or should have known, of the harassing work environment and conduct Plaintiff was subjected to by Defendants, and/or their owners, employees, managers, officers and/or agents, but did nothing to prevent, remedy or stop the harassment.

37. As a proximate result of defendants' willful, knowing, and intentional harassment of plaintiff, plaintiff has sustained and continues to sustain damages, including

1 losses of earnings and benefits, according to proof.

2 38. As a proximate result of defendants' willful, knowing, and intentional sexual
3 harassment of plaintiff, plaintiff has suffered humiliation, emotional distress, and mental and
4 physical pain and anguish, all to her damage in a sum according to proof.

5 39. Defendants' harassment was done intentionally, in a malicious, oppressive,
6 fraudulent manner, entitling plaintiff to punitive damages.

7 40. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
8 Plaintiff is at present unaware of the precise amounts of these expenses and fees and will seek
9 leave of court to amend this Complaint when the amounts are known

10 **THIRD CAUSE OF ACTION**

11 **RETALIATION**

12 **(Violation of Labor Code Sec. 1102.5)**

13 **(Against SHAOGUO BUFFET and SHAOGUO FENG)**

14 41. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through
15 40 above as though fully set forth below.

16 42. At all relevant times, Labor Code section 1102.5 was in effect and was binding
17 on defendants. This statute prohibits defendants from retaliating against any employee,
18 including plaintiff, for raising complaints of illegality.

19 43. Plaintiff raised complaints of illegality while she worked for defendants, and
20 defendants retaliated against her by discriminating against her, harassing her, and taking
21 adverse employment actions, including employment termination, against her.

22 44. As a proximate result of defendants' willful, knowing, and intentional
23 violations of Labor Code section 1102.5, plaintiff has suffered humiliation, emotional
24 distress, and mental and physical pain and anguish, all to her damage in a sum according to
25 proof.

26 45. As a result of defendants' adverse employment actions against plaintiff,
27 plaintiff has suffered general and special damages in sums according to proof.

28 46. Defendants' misconduct was committed intentionally, in a malicious,

1 oppressive, fraudulent manner, entitling plaintiff to punitive damages against defendants.

2 47. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
3 Plaintiff is at present unaware of the precise amounts of these expenses and fees and will seek
4 leave of court to amend this Complaint when the amounts are known.

5 **FOURTH CAUSE OF ACTION**

6 **FAILURE TO TAKE ALL REASONABLE STEPS TO PREVENT HARASSMENT,**

7 **DISCRIMINATION AND RETALIATION**

8 **(Violation of Cal. Gov't Code § 12940(k))**

9 **(Against SHAOGUO BUFFET and SHAOGUO FENG)**

10 48. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through
11 47 above as though fully set forth below.

12 49. Defendants failed to take immediate and appropriate corrective action in
13 response to the harassment, discrimination and/or retaliation to which Plaintiff was subjected
14 to. Specifically, by harassing Plaintiff, terminating her and/or retaliating against her based on
15 her race and/or complaints of harassment, discrimination, and/or retaliation, Defendants failed
16 to prevent and/or remedy the harassment, discrimination and retaliation to which Plaintiff was
17 subjected to. At all times, Defendants had a legal obligation to take prompt corrective action
18 in response to Plaintiff's complaints of discrimination, harassment and/or retaliation, but
19 disregarded their duties.

20 50. As a direct, legal and/or proximate result of the aforesaid acts of Defendants,
21 Plaintiff has suffered actual, consequential and incidental financial losses, including without
22 limitation, loss of income, earnings, salary and benefits, and the intangible loss of
23 employment related opportunities in her field and damage to her professional reputation, all in
24 an amount subject to proof at the time of trial. Plaintiff also claims such amounts as damages
25 pursuant to Civil Code §§ 3287, 3288 and/or any other provisions of law providing for
26 prejudgment interest.

27 51. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained
28 emotional distress, including, but not limited to, emotional trauma, physical manifestations of

1 emotional distress, personal injuries, pain and suffering, personal inconvenience, all to
2 Plaintiff's damages in an amount to be shown according to proof.

3 52. The conduct of Defendants in failing to prevent and/or remedy the harassment,
4 discrimination and/or retaliation Plaintiff was subjected to, as described above, subjected
5 Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as it was
6 anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future.
7 Plaintiff is informed and believes, and based thereon alleges, that Defendants' conduct against
8 Plaintiff was done with an intent to cause injury to the Plaintiff. As a consequence of the
9 aforesaid oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of
10 punitive damages in a sum to be shown according to proof pursuant to California Government
11 Code §§ 12965 & 12970.

12 53. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees
13 which he is entitled to recover pursuant to California Government Code § 12965.

14 **FIFTH CAUSE OF ACTION**

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

16 **(Against SHAOGUO BUFFET and SHAOGUO FENG)**

17 54. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through
18 53 above as though fully set forth below.

19 55. California law prohibits the termination or other adverse employment actions
20 against employees for reasons that violate public policy. Plaintiff is informed and believes
21 and thereon alleges that Defendants violated public policy by terminating her employment for
22 reasons that violate public policy of the State of California.

23 56. Defendants' termination of Plaintiff's employment violated California statutes
24 and/or common law that inure to the benefit of the public at large and are a statement of
25 California public policy, including, but not limited to, the FEHA, Government Code § 12940
26 et seq., California Labor Code, and other related statutes and common law. These laws,
27 statutes and their interpretative regulations inure to the benefit of the public at large, and
28 embody fundamental public policy of the State of California and/or the United States.

1 57. Defendants' termination of Plaintiff's employment was in direct violation of
2 common law, federal laws and California laws that inure to the benefit of the public at large
3 and are a statement of California and Federal public policy, including, but not limited to, laws
4 prohibiting discrimination, harassment and/or retaliation in the workplace. These laws,
5 statutes and their interpretative regulations ensure to the benefit of the public at large, and
6 embody fundamental public policy of the State of California and/or the United States. In
7 terminating Plaintiff based on her race, based on her complaint of Defendants' unlawful
8 gratuity policy, and her refusal to comply with Defendants' unlawful gratuity policy,
9 Defendants violated said public policies.

10 58. As a direct, legal and/or proximate result of the aforesaid acts of Defendants,
11 Plaintiff has suffered actual, consequential and incidental financial losses, including without
12 limitation, loss of income, earnings, salary and benefits, and the intangible loss of
13 employment related opportunities in her field and damage to her professional reputation, all in
14 an amount subject to proof at the time of trial. Plaintiff also claims such amounts as damages
15 pursuant to Civil Code §§ 3287, 3288 and/or any other provisions of law providing for
16 prejudgment interest.

17 59. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained
18 serious emotional distress, including, but not limited to, emotional trauma, physical
19 manifestations of emotional distress, personal injuries, pain and suffering, personal
20 inconvenience, sickness and illness, all to Plaintiff's damages in an amount to be shown
21 according to proof.

22 60. The conduct of Defendants in retaliating against and/or wrongfully terminating
23 Plaintiff subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
24 rights, as it was anticipated by Defendants that Plaintiff would suffer damages in the
25 foreseeable future. Plaintiff is informed and believes, and based thereon alleges, that
26 Defendants' conduct against Plaintiff was done with an intent to cause injury to the Plaintiff.
27 Moreover, the malicious, fraudulent and/or oppressive conduct was engaged in, authorized or
28 ratified by officers, directors or managing agents of the corporation and/or was the result of

the application of unlawful, malicious or oppressive policies and procedures. As a consequence of the aforesaid oppressive, malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof at trial.

SIXTH CAUSE OF ACTION

FAILURE TO PROVIDE MEAL AND REST PERIODS

(Violation of Labor Code Secs. 218.5, 218.6, 226.7, 512, 1198; IWC Wage Orders)

(Against SHAOGUO BUFFET and SHAOGUO FENG)

61. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through - 60 above as though fully set forth below.

62. Plaintiff regularly worked six (6) hours or more in a workday without being provided a meal period of at least thirty (30) minutes which Plaintiff did not waive. When an employer fails to provide such a meal period, the employer is required to pay the employee as wages one additional hour of pay at the employee's regular rate of compensation.

63. Defendants required Plaintiff to work without receiving timely meal periods to which she was entitled. Defendants regularly required Plaintiff to work shifts of six (6) hours or more without an opportunity for Plaintiff to take a meal break.

64. Defendants have failed to pay the additional meal period compensation to Plaintiff.

65. Defendants have failed to provide a suitable resting as required by Wage Order 5-2001, and instead forced her to take unpaid rest breaks in the back room where the trash was placed.

66. Defendants refused to provide all rest periods, failed to provide proper rest periods, failed to schedule rest periods for Plaintiff, failed to provide an adequate space for Plaintiff's break time, failed and refused to compensate Plaintiff when Plaintiff worked during rest periods, interrupted Plaintiff's rest periods, or required Plaintiff to take late rest periods, and are liable to Plaintiff for one hour of additional pay at the regular rate of compensation for each workday that the proper rest periods were not provided, pursuant to Labor Code Section 226.7 and Wage Order 1-2001, 5-2001, as well as interest thereon, plus reasonable

1 attorney's fees and costs of suit pursuant to California Code of Civil Procedure 1021.5.

2 67. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained
3 damages according to proof, in an amount to be established at trial, and is entitled to recover
4 interest, attorneys' fees and costs of suit.

5 **SEVENTH CAUSE OF ACTION**

6 **FAILURE TO MAINTAIN ACCURATE RECORDS**

7 **(Violation of Labor Code Sec. 353, 2052; 1198; IWC Wage Orders)**

8 **(Against SHAOGUO BUFFET and SHAOGUO FENG)**

9 68. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through
10 67 above as though fully set forth below.

11 69. Defendants have at all relevant times been required to keep accurate
12 information with respect to each employee including time records showing when the
13 employee begins and ends each work period, meal periods, total hours worked, and total
14 wages paid each payroll period.

15 70. Defendants failed to maintain accurate time records of all hours worked by
16 Plaintiff, including total hours worked and meal periods.

17 71. Plaintiff suffered injury from Defendants' failure to maintain accurate time
18 records.

19 72. Plaintiff could not determine the amount of wages earned or whether all wages
20 due had been paid. Plaintiff must therefore go through the difficulty and bear the expense of
21 reconstructing all time and pay records to make computations to analyze the amounts of
22 wages due.

23 73. As a direct and proximate result of Defendants' conduct, Plaintiff has sustained
24 damages according to proof, in an amount to be established at trial, and is entitled to recover
25 interest, attorneys' fees and costs of suit.

26 ///

27 ///

28 ///

EIGHTH CAUSE OF ACTION**FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS****(Violation of Labor Code Sec. 226)****(Against SHAOGUO BUFFET and SHAOGUO FENG)**

74. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 73 above as though fully set forth below.

75. Under Labor Code Section 226(a), Defendants have at all relevant times been required to provide Plaintiff with regular itemized written statements showing, among other things, total hours worked, all applicable hourly rates during the pay period, and the corresponding number of hours worked at each rate by the employee.

76. Defendants failed to pay Plaintiff for all hours worked, meal and rest break premiums, and overtime.

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

78. Defendants knew they were required by law to furnish accurate itemized statements in writing and intentionally failed to furnish them to Plaintiff on the regular paydays.

79. Defendants have failed to provide timely, accurate itemized wage statements to Plaintiffs in accordance with Labor Code Section 226. Plaintiff is informed and believes and, on that basis, alleges the statements provided by Defendants failed to accurately reflect the lawful hourly rates applicable to, inter alia, overtime hours for work in excess of eight (8) hours in a work-day and/or 40 hours in a work-week, meal and rest break premiums, and sick leave.

80. As a direct and proximate result of Defendants' conduct, Plaintiff has been

injured by, among other things, not being paid all wages due, not knowing how many hours he worked and at what rate(s), and being required to file this action to recover wages, penalties, and to determine the amount of hours worked and wages due. Plaintiff is entitled to recover the damages or penalties provided by Labor Code Section 226(e), including interest thereon, and reasonable attorney's fees and costs.

NINTH CAUSE OF ACTION

WAITING TIME PENTALIES

(Violation of Labor Code Sect. 203)

(Against SHAOGUO BUFFET and SHAOGUO FENG)

81. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 80 above as though fully set forth below.

82. California Labor Code sections 201-203 require an employer to pay all wages immediately at the time of separation of employment in the event the employer discharges the employee or the employee provides at least 72 hours of notice of their intent to quit.

83. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff all final wages due to her at her termination from employment, including unpaid overtime wages as well as unpaid meal and rest period premium wages.

84. Defendants' failure to pay all final wages was willful within the meaning of Cal. Labor Code section 203. Defendants' willful failure to timely pay Plaintiff his earned wages upon termination from employment results in a continued payment of daily wages up to thirty days from the time the wages were due.

85. Plaintiff is entitled to compensation pursuant to Cal. Labor Code section 203, plus reasonable attorneys' fees and costs of suit.

TENTH CAUSE OF ACTION

(Violation of Labor Code Sect. 351)

(Against SHAOGUO BUFFET and SHAOGUO FENG)

86. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 85 above as though fully set forth below.

1 87. Pursuant to California law, as set forth in Labor Code section 350 et seq.,

2 "No employer or agent shall collect, take, or receive any
3 gratuity or a part thereof, paid, given to or left for an
4 employee by a patron, or deduct any amount from wages due
5 an employee on account of such gratuity, or require an
6 employee to credit the amount, or any part thereof, of such
7 gratuity against and as a part of the wages due the employee
8 from the employer. Every such gratuity is hereby declared to
9 be the sole property of the employee or employees to whom it
10 was paid, given, or left for...."

11 88. By collecting, taking, and receiving monies solely on account of gratuities
12 intended by patrons for and given to Plaintiff, Defendants violated Labor Code Sec. 351.

13 89. As a direct and proximate result of Defendants' wrongful collecting, taking
14 and receiving of part of the gratuities paid and given to Plaintiff by patrons, Plaintiff has been
15 damaged in the amount of such monies wrongfully appropriated subject to proof at time of
16 trial.

17 **ELEVENTH CAUSE OF ACTION**

18 **UNFAIR COMPETITION**

19 **(Business and Professions Code Sec. 17200 et seq.)**

20 **(Against SHAOGUO BUFFET and SHAOGUO FENG)**

21 90. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through
22 89 above as though fully set forth below.

23 91. Business and Professions Code Section 17200, et. seq. prohibits unfair
24 competition in the form of any unlawful, unfair, deceptive, or fraudulent business practices.

25 92. Beginning at an exact date unknown to Plaintiff, but continuing through her
26 separation of employment, Defendants committed unlawful acts as defined by Business and
27 Professions Code Section 17200. Defendants' unlawful and unfair business practices include,
28 but are not necessarily limited to, violations of the requirements of Labor Code sections 201-
204, 226, 226.7, 246, 350-356, 510, 512, 1194, 1197, 1198, et seq. and the applicable Wage
Order.

93. The knowing conduct of Defendants, as alleged herein, constitutes an unlawful business practice, as set forth in Business and Professions Code Sections 17200-17208. Specifically, Defendants conducted business activities while failing to comply with the legal mandates herein.

94. Defendants' knowing failure to adopt policies in accordance with, and/or to adhere to these laws, all of which are binding upon and burdensome on its competitors, engenders and unfair competitive advantage for Defendants, thereby constituting and unfair business practice, as set forth in Business and Professions Code Section 17208.

95. Business and Professions Code Section 17203 provides the Court may restore to any person in interest any money or property which may have been acquired by means of such unfair competition. As a direct and proximate result of the aforementioned acts, Plaintiff was injured and suffered the loss of money in the amount of, inter alia, unpaid wages, penalties, and gratuities she was otherwise entitled to receive. Plaintiff is entitled to restitution pursuant to Business and Professions Code sections 17203 and 17208 for all wages and gratuities unlawfully withheld as a result of Defendants' unlawful and unfair conduct.

96. Plaintiff's success in this action will enforce important rights affecting the public interest. Plaintiff seeks, and is entitled to, injunctive relief as well as all other appropriate equitable remedies. Injunctive relief is necessary and appropriate to prevent Defendants from repeating the wrongful business practices alleged herein.

97. Plaintiff seeks restitution under these provisions according to proof, plus attorneys' fees and costs, and any expert witness costs, under this section.

TWELFTH CAUSE OF ACTION

CIVIL PENALTIES UNDER PAGA VIOLATIONS

(California Private Attorneys General Act, Labor Code §§ 2698)

(Against SHAOGUO BUFFET and SHAOGUO FENG)

98. Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 97 above as though fully set forth below.

99. Defendants paid wages to employees on bi-weekly intervals. Defendants failed

1 to pay Plaintiff on such intervals for all wages earned and all hours worked.

2 100. At all relevant times, Defendants were under a duty to comply with the
3 provisions of the Labor Code. During the applicable time period, Defendants violated
4 California Labor Code §§ 201, 202, 203, 204, 221, 226, 226.7, 350-356, 510, 512, 1102.5,
5 1174, 1174.5, 1194, 1197, 1198, 2052 and 2802.

6 101. California Labor Code §§2699(a) and (g) authorize an aggrieved employee, on
7 behalf of themselves and other current or former employees, to bring a civil action to recover
8 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

9 102. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff is entitled to
10 recover civil penalties for each of the Defendants' violations of California Labor Code §§
11 201, 202, 203, 204, 221, 226, 226.7, 350-356, 510, 512, 1102.5, 1174, 1174.5, 1194, 1197,
12 1198, 2052 and 2802 during the applicable limitations period in the following amounts:

13 A. For violations of California Labor Code § 204, one hundred dollars
14 (\$100.00) for each initial violation and two hundred dollars (\$200.00) for each subsequent,
15 willful or intentional violation (penalty amounts established by California Labor Code § 210).

16 B. For violations of California Labor Code § 226(a), two hundred fifty
17 dollars (\$250.00) for each initial violation and one thousand dollars (\$1,000.00) for each
18 subsequent violation (penalty amounts established by California Labor Code § 226.3)

19 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
20 (\$50.00) for each initial violation and one hundred dollars (\$100.00) for each subsequent
21 violation per pay period (penalty amounts established by California Labor Code § 558).

22 D. For violations of California Labor Code § 1102.5, ten thousand dollars
23 (\$10,000.00) for each violation (penalty amounts established by California Labor Code §
24 1102.5(f).).

25 D. For violations of California Labor Code § 1174, five hundred dollars
26 (\$500.00) for each violation (penalty amounts established by California Labor Code §
27 1174.5).

28 E. For violations of California Labor Code § 1197, one hundred dollars

1 (\$100.00) for each initial violation and two hundred fifty dollars (\$250.00) for each
 2 subsequent violation per pay period (regardless of whether the initial violations were
 3 intentionally committed) (penalty amounts established by California Labor Code § 1197.1).

4 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 351,
 5 353, 1194, 1198, 2052 and 2802, one hundred dollars (\$100.00) for each of Plaintiff's pay
 6 period for each initial violation and two hundred dollars (\$200.00) for each of Plaintiff's pay
 7 period for each subsequent violation (penalty amounts established by California Labor Code §
 8 2699(f)(2)).

9 G. For violations of California Labor Code § 221, one hundred dollars
 10 (\$100.00) for each initial violation of California Labor Code § 221 (if found to be neither
 11 willful nor intentional) and two hundred dollars (\$200.00) (if found to be either willful or
 12 intentional) and for each subsequent violation of California Labor Code § 221 (regardless of
 13 whether they are found to be willful or intentional) (penalties set by California Labor Code §
 14 225.5).

15 103. Plaintiff has complied with the procedures for bringing suit specified in
 16 California Labor Code § 2699.3. By letter dated Month, day, 2022, Plaintiff filed written
 17 notice online with the Labor and Workforce Development Agency ("LWDA") and gave
 18 written notice by certified mail to Defendants of the specific provisions of the California
 19 Labor Code alleged to have been violated, including the facts and theories to support the
 20 alleged violations. Plaintiff accompanied her LWDA notice with a fee in the amount of
 21 \$75.00. The LWDA has failed to take action in response within 65 calendar days of the date
 22 of Plaintiff's notice, but Plaintiff anticipates the LWDA will provide written notice to
 23 Plaintiff informing her that it does not intend to investigate these allegations.

24 104. Pursuant to California Labor Code § 2699(g), Plaintiff is entitled to an award of
 25 civil penalties and reasonable attorneys' fees and costs in connection with their claims for
 26 civil penalties.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. For general damages, according to proof;
2. For special damages, according to proof;
3. For loss of earnings, according to proof;
4. For economic damages, according to proof;
5. For emotional damages, according to proof;
6. For punitive and exemplary damages, according to proof;
7. Award Plaintiff “waiting time” penalties (pursuant to Labor Code Section 203);
8. Award Plaintiff actual damages or penalties for failure to maintain accurate employee records in an amount to be proven at trial;
9. Award Plaintiff actual damages or penalties for failure to provide accurate wage statements and failure to furnish employment records (pursuant to Labor Code Sections 226, 1198.5 and applicable wage order);
10. Award Plaintiff liquidated damages (pursuant to Labor Code Section 1194.2(a));
11. Order Defendants to pay restitution to Plaintiff (pursuant to Business and Professions Code Section 17200, et seq.);
12. For reasonable attorneys’ fees, pursuant to Cal. Gov’t Code Section 12940 et seq., Labor Code sections 218.5, 226, 1102.5, 1194, and/or Code of Civil Procedure Section 1021.5, and for a contingency fee enhancement beyond the lodestar in accordance with Ketchum v. Moses (2001) 24 Cal.4th 1122, and related authorities;
13. For prejudgment interest pursuant to Labor Code section 218.6, according to proof;
14. For cost of suit incurred herein; and
15. For such other relief the Court may deem just and proper.

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HANSRA CARDENAS LLP
19925 Stevens Creek Blvd. Ste. 100
CUPERTINO, CA 95014

1 Dated: May 16, 2022

HANSRA CARDENAS LLP

2 By:

Enedina S. Cardenas

3 _____
Jagdeep Hansra

4 Enedina S. Cardenas

5 Attorneys for Plaintiff

6 KAREN LARA

DEMAND FOR JURY TRIAL

Plaintiff hereby demand a trial by jury on all matters so triable.

Dated: May 16, 2022

HANSRA CARDENAS LLP

By:

Enedina S. Cardenas

Jagdeep Hansra

Enedina S. Cardenas

Attorneys for Plaintiff

KAREN LARA

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