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21 **SUPERIOR COURT OF CALIFORNIA**

22 **COUNTY OF MARIN**

23 DONNIE MARQUEZ, JASMINE CRUZ, and
24 SHALON JONES, individually and on behalf of
25 all others similarly situated,

26 Plaintiffs,

27 v.

28 PEET'S COFFEE, and DOES 1 through 10,
inclusive,

Defendant.

Case No. CIV2201507

CLASS ACTION COMPLAINT

- (1) FAILURE TO REIMBURSE
BUSINESS EXPENSES (LABOR CODE §
2802);
(2) FAILURE TO COMPENSATE FOR
ALL HOURS WORKED (LABOR CODE
§§ 200, 204, 1194, AND 1198)
(3) FAILURE TO PAY MINIMUM
WAGE (LABOR CODE §§ 1182.11,
1182.12, 1194, 1194.2, 1197)
(4) FAILURE TO PAY OVERTIME
WAGES (LABOR CODE §§ 200, 510,
1194)
(5) FAILURE TO PROVIDE MEAL
BREAKS (LABOR CODE § 226.7, 512,
IWC WAGE ORDER 5-2001, § 11)
(6) FAILURE TO PROVIDE REST
BREAKS (LABOR CODE §§ 226.7, IWC

FILED

MAY 19 2022

JAMES M. KIM
COURT EXECUTIVE OFFICER
MARIN CO. SUPERIOR COURT
BY: N. JOHNSON

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WAGE ORDER 5-2001, § 12)
(7) FAILURE TO PROVIDE
ACCURATE, TIMELY, AND ITEMIZED
WAGE STATEMENTS (LABOR CODE
§§ 226, 1174, 1174.5)
(8) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203)
(9) UCL VIOLATIONS (BUS. & PROF.
CODE§ 17200-04)(10) PENALTIES
(LABOR CODE § 2699)

JURY TRIAL DEMANDED

1 Donnie Marquez, Jasmine Cruz, and Shalon Jones, on behalf of themselves and all others
2 similarly situated (“Plaintiffs”), on behalf of themselves and all others similarly situated
3 (hereinafter “Class Members”), complain and allege as follows:

4 **A. INTRODUCTION**

5 1. This is a class action, under Code of Civil Procedure § 382, against Defendant Peet’s
6 Coffee (“Peet’s” or “Defendant”) to challenge its policies and/or practices of (1) failing to
7 reimburse Plaintiffs and all employees similarly situated for unreimbursed business expenses; (2)
8 failing to compensate Plaintiffs and all employees similarly situated for all hours worked; (3) failing
9 to pay Plaintiffs and all employees similarly situated minimum wage as required by California law;
10 (4) failing to pay Plaintiffs and all employees similarly situated overtime wages; (5) failing to
11 provide Plaintiffs and all employees similarly situated meal breaks; (6) failing to provide Plaintiffs
12 and all employees similarly situated rest breaks; (7) failing to pay Plaintiffs and all employees
13 similarly situated their regular rate when paying meal and rest period premiums; (8) failing to pay
14 Plaintiffs and all employees similarly situated their regular rate when paying for sick pay; (9) failing
15 to provide Plaintiffs and all employees similarly situated accurate, itemized wage statements; and
16 (10) failing to timely pay Plaintiffs and all employees similarly situated wages owed upon the
17 termination of employment.

18 2. Plaintiffs seek reimbursement for business expenses, unpaid wages, and interest
19 thereon, penalties, declaratory and equitable relief, and reasonable attorneys’ fees and costs under
20 California Labor Code § 2802; California Labor Code § 200, 204, 1194, and 1198; California Labor
21 Code §§ 1182.11, 1182.12, 1194, 1194.2, 1197; California Labor Code §§ 200, 510, 1194;
22 California Labor Code §§ 226.7, 512, and IWC Wage Order 5-2001, § 11; California Labor Code
23 § 226.7 and IWC Wage Order 5-2001, § 12; California Labor Code §§ 226, 1174, 1174.5; California
24 Labor Code §§ 201-203; California Labor Code § 246; California Bus. & Prof. Code § 17200 *et*
25 *seq.*; and California Labor Code §§ 2698 *et seq.* on behalf of Plaintiffs and all other individuals
26 who are or have been employed as Store Managers, Assistant Store Managers, or Store Leads and
27 paid an hourly wage (collectively “Managers”) by Defendant in California during the four years
28 prior to the filing of this action. As more fully described herein, Plaintiffs and similarly situated

1 Managers employed by Defendant during the Class Period as defined below (hereinafter “Class
2 Members”): (a) paid out-of-pocket business expenses reasonably necessary for the performance of
3 their jobs as Managers for Defendant for which Plaintiffs and Class Members have not received
4 reimbursement from Defendant; (b) worked off-the-clock without compensation; (c), did not
5 receive legally compliant meal and rest breaks; and (d) were not paid at their regular rate for meal
6 and rest period premiums or for their sick time pursuant to Defendant’s policies and/or practices.
7 Plaintiffs, on behalf of themselves and Class Members, seek damages and restitution of all unjust
8 enrichment Defendant has enjoyed from its failure to reimburse business expenses incurred by
9 Plaintiffs and Class Members and failure to pay for all hours worked. Plaintiffs also seek unpaid
10 wages, and interest thereon, penalties, declaratory and equitable relief, and reasonable attorneys’
11 fees and costs under California Labor Code § 201-203, 226.7, 246 and California Bus. & Prof. Code
12 § 17200 *et seq.* on behalf of Plaintiffs and the Class Members.

13 3. The “Class Period” is designated as the period from the date four years prior to the
14 filing of the Complaint through the date the Court grants class certification. The violations of
15 California’s employee expense reimbursement law and wage payment laws, as described more fully
16 below, have been ongoing during the statutory time period covered by this action and to the present,
17 and will continue unless and until enjoined by the Court.

18 4. Plaintiffs and Class Members were Managers who managed and were responsible
19 for Peet’s locations in California. Regardless of whether they were scheduled to be working or not,
20 Managers addressed issues that occurred inside the Peet’s locations as they arose or were related to
21 the general operations of the Peet’s location. Defendant expected and required Managers to address
22 issues that occurred inside Peet’s locations as they arose or were related to the Peet’s location’s
23 general operations. In meeting these expectations, Managers regularly used their personal cellular
24 telephone and data/text plans to: respond to respond to and send group text messages to
25 communicate with other Peet’s employees, place and/or receive calls or texts from Peet’s
26 employees working in the store location, place and/or receive calls or texts from Peet’s employees
27 not working at the store location regarding issues such as scheduling and staffing, and place and/or
28 receive calls or texts with supervisory Peet’s employees. Plaintiffs and similarly situated Managers

1 were expected by Defendant to pay for their own personal cell phone and a data/text plan that they
2 then used in the discharge of their duties as employees of Defendant. Defendant has willfully failed
3 to reimburse Plaintiffs and other present and former Managers for these business expenses that were
4 incurred in the regular course of their duties as Defendant's employees, as required by California
5 law. As a result of having to use their personal mobile devices at all times and regardless of whether
6 they were scheduled to work or not, Plaintiffs and other similarly situated Managers worked off-
7 the-clock without compensation and were not authorized and permitted to take meal and rest breaks
8 as required by California law.

9 5. Plaintiffs and the Class Members are or were non-exempt hourly employees.
10 Plaintiffs and the Class Members' compensation consisted of hourly compensation at a base hourly
11 rate, in addition to non-discretionary bonuses.

12 6. Plaintiffs were entitled to be paid their regular rate for any meal and rest premiums
13 paid. However, when Defendant paid meal and rest premiums, it failed to pay such premiums at
14 each employee's regular rate, and instead paid the employees at their base hourly rate. Additionally,
15 Defendant provided sick pay to Plaintiffs and the Class Members. Sick pay must be compensated
16 at the employee's regular rate of pay for the workweek in which the paid leave was taken, or at a
17 rate determined by averaging over 90-days pursuant to Labor Code § 246(l). Defendant failed to
18 pay Employee Class Members their sick pay at each employee's regular rate.

19 **B. JURISDICTION**

20 7. This Court has personal jurisdiction over Defendant because Defendant does
21 business in California, Plaintiffs are residents of California, and Plaintiffs' claims against Defendant
22 are directly tethered to Defendant's contacts with the State of California.

23 8. This Court has general jurisdiction over Plaintiffs' and Class Members' Labor Code
24 claims. This Court also has jurisdiction over Plaintiffs' and Class Members' claims for penalties in
25 violation of the Labor Code pursuant to Business and Professions Code § 17202, as well as pursuant
26 to the applicable Labor Code provisions.

27 **C. VENUE**

28 9. Venue is proper in this County pursuant to Code of Civil Procedure § 395(a).

1 Defendant conducts business in this County. A substantial portion of the events giving rise to the
2 causes of action herein occurred in this County.

3 **D. PARTIES**

4 10. Plaintiff Donnie Marquez (“Marquez”) resides in San Francisco, California.
5 Plaintiff Marquez was employed by Defendant from approximately May 2020 to September 2021.
6 During the Class Period, from May 2020 to September 2021, Plaintiff Marquez worked as an
7 Assistant Store Manager for Defendant in Santa Rosa, California. From July 2017 to February 2019,
8 Plaintiff Marquez worked as a Store Manager for Defendant in Tiburon, California. During the
9 Class Period, Plaintiff Marquez was subject to Defendant’s unlawful business expense
10 reimbursement and unlawful wage payment policies and/or practices set forth herein.

11 11. Plaintiff Jasmine Cruz (“Cruz”) resides in Santa Rosa, California. Plaintiff Cruz
12 was employed by Defendant from approximately April 2017 to December 2019. During the Class
13 Period, Plaintiff Cruz worked as a Shift Lead for Defendant in Petaluma, California. During the
14 Class Period, Plaintiff Cruz was subject to Defendant’s unlawful business expense reimbursement
15 and unlawful wage payment policies and/or practices set forth herein.

16 12. Plaintiff Shalon Jones (“Jones”) resides in Fairfield, California. Plaintiff Jones was
17 employed by Defendant from approximately August 2007 to June 2019. During the Class Period,
18 Plaintiff Jones worked as a Store Manager for Defendant in San Francisco, California. During the
19 Class Period, Plaintiff Jones was subject to Defendant’s unlawful business expense reimbursement
20 and unlawful wage payment policies and/or practices set forth herein.

21 13. Defendant Peet’s Coffee is a California Corporation with its principal place of
22 business in Berkeley, California.

23 14. The true names and capacities of persons or entities, whether individual, corporate,
24 associate, or otherwise are currently unknown to Plaintiffs. Plaintiffs are informed and believe, and
25 based thereon allege, that additional defendants may be legally responsible in some manner for the
26 unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to
27 reflect the true names and capacities of such defendants when such identities become known.

28 15. All of Plaintiffs’ claims stated herein are asserted against Defendant and any of their

1 owners, predecessors, successors, subsidiaries, and/or assigns.

2 **E. FACTUAL BACKGROUND**

3 16. Defendant operates, and at all times during the liability period, has done business in
4 this judicial district and throughout California.

5 17. Since at least four years prior to the filing of this action, Defendant has maintained
6 business expense policies and/or practices that deny lawful reimbursement and/or compensation to
7 its Managers. Those policies and/or practices require, and/or with knowledge thereof permit,
8 Managers to pay for expenses incurred in direct consequence of discharging their managerial duties
9 on behalf of Defendant, including using their personal cell phones and data plans to respond to and
10 send group messages to communicate with other Peet's employees, place and/or receive calls or
11 texts from Peet's employees working in the store location, place and/or receive calls or texts from
12 Peet's employees not working at the store location regarding issues such as scheduling and staffing,
13 and place and/or receive calls or texts from supervisory Peet's employees.

14 18. Since at least four years prior to the filing of this action, Defendant has maintained
15 and enforced policies and/or practices pursuant to which Plaintiffs and Class Members were
16 required to work off-the-clock both while away from the store and at the store during their meal
17 and rest breaks, including receiving, reviewing and responding to messages *via* group messaging
18 applications, text messages, and phone calls, and performing food preparation and customer service
19 tasks, as more fully described herein.

20 19. Defendant has maintained these same business expense and wage payment policies
21 and/or practices or substantially similar ones throughout the Class Period.

22 20. Defendant is aware that Managers regularly incur business expenses in the discharge
23 of their duties as employees. Defendant nevertheless fails and refuses to reimburse Managers for
24 such business expenses incurred by them in their work as they managed Defendant's locations.

25 21. Defendant is aware that Managers regularly work off-the-clock before and after
26 scheduled hours and during Managers' meal and rest breaks. Plaintiffs' and Class Members' direct
27 supervisors, as well other upper-level managers were themselves included on these messaging
28 applications, and texts. Defendant nevertheless has failed and refuses to compensate Managers for

1 these hours worked.

2 22. Plaintiffs and Class Members have been harmed by Defendant's unlawful business
3 expense policies and/or practices in that they have not been paid for certain business expenses
4 incurred while employed by Defendant, as alleged above, thereby diminishing their agreed-upon
5 compensation, in amounts to be proven at trial.

6 23. Plaintiffs and Class Members have been harmed by Defendant's unlawful policies
7 and/or practices in that they have worked off-the-clock for the benefit of Defendant without
8 compensation, in amounts to be proven at trial.

9 24. As a result of Defendant's policies and/or practices, Plaintiffs and Class Members
10 worked in excess of eight hours a day or forty hours in a week, but were not compensated for all of
11 this time.

12 25. When the uncompensated time is factored in, Plaintiffs and Class Members regularly
13 work over 8 hours per day, necessitating the payment of overtime compensation for some of the
14 time that they work. But as a result of its policies and/or practices, Defendant fails to pay Plaintiffs
15 and Class Members the required overtime premium for this time.

16 26. Because Defendant utilizes group messaging applications, and texts while Plaintiffs
17 and Class Members are supposed to be on their meal and rest breaks, Defendant has failed to
18 provide 30-minute uninterrupted meal breaks where the employees are relieved of all duties and
19 has failed to authorize and permit its employees to take 10-minute rest breaks.

20 27. When Defendant paid meal or rest period premium wages, Plaintiffs and Class
21 Members were only paid at the employee's base hourly rate rather than their regular rate.

22 28. Defendant provided sick pay to Plaintiffs and Class Members. Sick pay must be
23 compensated at the employee's regular rate of pay, for the workweek in which the paid leave was
24 taken, or at a rate determined by averaging over 90-days pursuant to Labor Code § 246(l). Defendant
25 failed to pay Plaintiffs and Class Members their sick pay at each employee's regular rate.

26 29. Defendant does not provide Plaintiffs and Class Members with accurate wage
27 statements as required by California law. Plaintiffs and Class Members receive wage statements
28 that do not reflect all hours worked or applicable overtime premiums.

30. Defendant does not provide Plaintiffs and Class Members with full payment of all wages owed at the end of employment. These workers are owed wages and premium pay for all time worked, as well as overtime. These amounts remain unpaid after voluntary and involuntary termination. As a consequence, Defendant is subject to waiting time penalties.

31. Plaintiffs are informed, believe, and thereon allege that Defendant's unlawful conduct has been widespread, repeated, and consistent as to Class Members and throughout Defendant's operations in California. Defendant knows or should know that its policies and/or practices have been unlawful and unfair.

32. Defendant's conduct was willful, carried out in bad faith, and caused significant damages to Plaintiffs and Class Members in an amount to be determined at trial.

F. CLASS ACTION ALLEGATIONS

33. Plaintiffs bring this action, on behalf of themselves and all others similarly situated, as a class action pursuant to Code of Civil Procedure § 382. The Class that Plaintiffs seek to represent is composed of and defined as follows:

All persons who are or have been employed, at any time during the Class Period by Peet's in California under the job title Store Manager, Assistant Store Manager or Store Lead.

34. This action has been brought and may properly be maintained as a class action under Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation, the proposed class is easily ascertainable, and Plaintiffs are proper representatives of the Class:

a. Numerosity: The potential members of the Class as defined are numerous and therefore joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiffs are informed and believe that Defendant has employed hundreds of Store Managers, Assistant Store Managers and Store Leads in California subject to Defendant's business expense reimbursement and wage payment policies at all times during the Class Period. Joinder of all members of the proposed class is not practicable.

b. Commonality: There are questions of law and fact common to the Plaintiffs

1 and the Class that predominate over any questions affecting only individual
2 members of the Class. These common questions of law and fact include, without
3 limitation:

- 4 i. Whether Plaintiffs and Class Members have incurred unreimbursed
5 business expenses in the discharge of their duties as employees,
6 including but not limited to expenses for such items as the cost of
7 personal cell phones and the concomitant data/text plans;
- 8 ii. Whether Defendant expected Plaintiffs and Class Members to
9 address issues in Defendant's locations as they arose or those related
10 to the general operations of Defendant's locations by using their
11 personal cell phone and concomitant data/text plans;
- 12 iii. Whether Defendant intended, suffered and permitted, and/or were
13 aware that Plaintiffs and Class Members incurred such business
14 expenses in the discharge of their duties as employees;
- 15 iv. Whether Defendant failed and/or refused to reimburse, fully or at all,
16 business expenses incurred by Plaintiffs and Class Members in the
17 discharge of their duties;
- 18 v. Whether Defendant's failure to reimburse business expenses incurred
19 by Plaintiffs and Class Members, fully or at all, was the result of,
20 and/or pursuant to, a business policy or regular practice of Defendant;
- 21 vi. Whether Plaintiffs and Class Members have worked for Defendant
22 without compensation in the discharge of their duties as employees,
23 included but not limited to receiving, reviewing, and responding to
24 messaging applications, texts, and phone calls as described herein;
- 25 vii. Whether Defendant expected Plaintiffs and Class Members to
26 address issues in Defendant's locations as they arose or those related
27 to the general operations of Defendant's locations while they were
28 away from Defendant's store location and off-the-clock;

- viii. Whether Defendant intended, suffered and permitted, and/or was aware that Plaintiffs and Class Members worked off-the-clock as described herein in the discharge of their duties as employees;
- ix. Whether Defendant failed to pay Plaintiffs and Class Members for all of their hours worked;
- x. Whether Defendant's failure to pay Plaintiffs and Class Members for all of their hours worked was the result of, and/or pursuant to, a business policy or regular practice of Defendant;
- xi. Whether Defendant failed to provide Plaintiffs and Class Members meal periods in the duration, timing and manner as required;
- xii. Whether Defendant authorized and permitted Plaintiffs and Class Members to take rest breaks in the duration, timing and manner as required;
- xiii. Whether Defendant, in paying meal and rest premiums to the Class Members, failed to pay at the employee's regular rate in violation of Labor Code § 226.7;
- xiv. Whether Defendant violated Bus. & Prof. Code § 17200 by failing to pay Class Members sick pay at their regular rate in violation of Labor Code § 246.
- xv. Whether Defendant violated Labor Code § 2802 and Bus. & Prof. Code § 17200 by denying Plaintiffs and other Class Members reimbursement for their business expenses;
- xvi. Whether Defendant violated Labor Code §§ 200, 204, 1194, and 1198; Labor Code §§ 1182.11, 1182.12, 1194, 1194.2, 1197; Labor Code §§ 200, 510, 1194; Labor Code 226.7, 512, and IWC Wage Order 5-2001, §§ 11 and 12; Labor Code §§ 226, 1174, 1174.5; Labor Code §§ 201-203; and Bus. & Prof. Code § 17200 by failing to pay Plaintiffs and other Class Members for all their hours worked; and

xvii. The proper formula(s) for calculating restitution, damages, penalties and interest owed to Plaintiffs and the Class Members.

c. Typicality: Plaintiffs' claims are typical of the claims of the Class. Both Plaintiffs and Class Members sustained injuries and damages, and were deprived of property rightly belonging to them, arising out of and caused by Defendant's course of conduct in violation of law as alleged herein, in similar ways and for the same types of expenses.

d. Adequacy of Representation: Plaintiffs are members of the Class and will fairly and adequately represent and protect the interests of the Class Members. Plaintiffs' interests do not conflict with those of Class Members. Counsel who represent the Plaintiffs are competent and experienced in litigating large wage and hour class actions, including both business expense reimbursement cases and wage payment class actions, and will devote sufficient time and resources to the case and otherwise adequately represent the Class.

e. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each Class Member has been damaged or may be damaged in the future by reason of Defendant's unlawful policies and/or practices of not reimbursing business expenses, and not paying all wages due and owing. Certification of this case as a class action will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Certifying this case as a class action is superior because the Plaintiffs seek relief that will affect all Class Members in a common way, and will also allow for efficient and full disgorgement of the ill-gotten gains Defendant has enjoyed by maintaining their unlawful business expense reimbursement and wage payment policies and practices, and will thereby effectuate California's strong public policy of protecting employees

1 from deprivation or offsetting of compensation earned in their employment. If this
2 action is not certified as a Class Action, it will be impossible as a practical matter
3 for many or most Class Members to bring individual actions to recover monies
4 unlawfully withheld from their lawful compensation due from Defendant, due to the
5 relatively small amounts of such individual recoveries relative to the costs, burdens,
6 and risks of litigation.

7 **FIRST CAUSE OF ACTION**
8 **Failure To Reimburse Business Expenses**
9 **(Labor Code § 2802)**

10 35. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
11 herein.

12 36. Labor Code § 2802 provides that “[a]n employer shall indemnify his or her
13 employee for all necessary expenditures or losses incurred by the employee in direct consequence
14 of the discharge of his or her duties.”

15 37. In order to discharge their management-related duties for Defendant, Plaintiffs and
16 similarly situated Managers were required and/or expected by Defendant to use their own personal
17 cell phones and data/text plans to address issues in the location that they managed as they arose
18 and/or issues related to the general operations of the location, regardless of whether they were
19 working inside Defendant’s location or not. However, Defendant did not fully pay for expenses
20 incurred as a result of Plaintiffs and Class Members’ use of their personal cell phone and data/text
21 plans in carrying out their managerial duties.

22 38. Plaintiffs and similarly situated Managers are entitled to reimbursement for these
23 necessary expenditures, plus interest and attorneys’ fees and costs, under Labor Code § 2802.

24 39. As a result of Defendant’s violations of Labor Code § 2802, Defendant is also liable
25 for attorneys’ fees and costs under Labor Code § 2802(c).

26 **SECOND CAUSE OF ACTION**
27 **Failure to Pay for All Hours Worked**
28 **(Labor Code §§ 200, 204, 1194, and 1198)**

40. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
herein.

1 41. Plaintiffs allege that Defendant willfully engaged and continues to engage in a policy
2 and practice of not compensating Plaintiffs and Class Members for all hours worked or spent in
3 Defendant's control.

4 42. Defendant regularly requires Plaintiffs and Class Members to perform
5 uncompensated off-the-clock work, as described here.

6 43. Labor Code § 200 defines wages as "all amounts for labor performed by employees
7 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
8 commission basis or method of calculation."

9 44. Labor Code § 204(a) provides that "[a]ll wages ... earned by any person in any
10 employment are due and payable twice during each calendar month...."

11 45. Labor Code § 1194(a) provides as follows:

12 Notwithstanding any agreement to work for a lesser wage, any employee receiving
13 less than the legal minimum wage or the legal overtime compensation applicable
14 to the employee is entitled to recover in a civil action the unpaid balance of the full
amount of this minimum wage or overtime compensation, including interest
thereon, reasonable attorneys' fees, and costs of suit.

15 46. Labor Code § 1198 makes it unlawful for employers to employ employees under
16 conditions that violate the Wage Order.

17 47. IWC Wage Order 5-2001(2)(K) defines hours worked as "the time during which an
18 employee is subject to the control of an employer, and includes all the time the employee is suffered
19 or permitted to work, whether or not required to do so."

20 48. In violation of California law, Defendant knowingly and willfully refuses to perform
21 its obligation to provide Plaintiffs and Class Members with compensation for all time worked.
22 Therefore, Defendant committed, and continues to commit, the acts alleged herein knowingly and
23 willfully, and in conscious disregard of Plaintiffs' and Class Members' rights. Plaintiffs and Class
24 Members are thus entitled to recover nominal, actual, and compensatory damages, plus interest,
25 attorneys' fees, expenses and costs of suit.

26 49. As a proximate result of the aforementioned violations, Plaintiffs and Class
27 Members have been damaged in an amount according to proof at time of trial.
28

THIRD CAUSE OF ACTION
Failure to Pay Minimum Wage
(Labor Code §§ 1182.11, 1182.12, 1194, 1194.2, and 1197)

50. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

51. Defendant fails to compensate Plaintiffs and Class Members with at least the minimum wage for all hours worked or spent in Defendant's control.

52. During the applicable statutory period, Labor Code §§ 1182.11, 1182.12, and 1197, and the Minimum Wage Order were in full force and effect and required that employees receive the minimum wage for all hours worked. Certain municipalities in California also have their own minimum wage rates.

53. IWC Wage Order 5-2001(2)(K) define hours worked as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

54. Labor Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

55. Because of Defendant's policies and/or practices with regard to compensating Plaintiffs and Class Members, Defendant has failed to pay minimum wages as required by law. Plaintiffs and Class Members frequently perform work for which they are compensated below the statutory minimum, as determined by the IWC.

56. Labor Code § 1194.2 provides that, in any action under § 1194 to recover wages because of the payment of a wage less than minimum wage fixed by an order of the commission, an employer shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

57. California law further requires that employers pay their employees for all hours worked at the statutory or agreed upon rate. No part of the rate may be used as a credit against a minimum wage obligation.

1 58. By failing to maintain adequate time records as required by Labor Code §1174(d)
2 and IWC Wage Order 5-2001(7), Defendant has made it difficult to calculate the minimum wage
3 compensation due to Plaintiffs and Class Members.

4 59. Plaintiffs and Class Members have been deprived of minimum wages in an amount
5 to be proven at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus
6 interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2, and
7 1197.1.

8 **FOURTH CAUSE OF ACTION**
9 **Failure to Pay Overtime Wages**
 (Labor Code §§ 200, 510, and 1194)

10 60. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
11 herein.

12 61. Defendant does not properly compensate Plaintiffs and Class Members with
13 appropriate overtime premiums, including time and a half premiums based on their regular rate of
14 pay, as required by California law.

15 62. Labor Code § 510(a) provides as follows:

16 Eight hours of labor constitutes a day's work. Any work in excess of eight hours
17 in one workday and any work in excess of 40 hours in any one workweek and the
18 first eight hours worked on the seventh day of work in any one workweek shall be
19 compensated at the rate of no less than one and one-half times the regular rate of
20 pay for an employee. Any work in excess of 12 hours in one day shall be
21 compensated at the rate of no less than twice the regular rate of pay for an
22 employee. In addition, any work in excess of eight hours on any seventh day of a
workweek shall be compensated at the rate of no less than twice the regular rate of
pay of an employee. Nothing in this section requires an employer to combine
more than one rate of overtime compensation in order to calculate the amount to be
paid to an employee for any hour of overtime work.

23 63. IWC Wage Order 5-2001(3)(A)(1) states:

24 The following overtime provisions are applicable to employees 18 years of age or
25 over and to employees 16 or 17 years of age who are not required by law to attend
26 school and are not otherwise prohibited by law from engaging in the subject work.
Such employees shall not be employed more than eight (8) hours in any workday
27 or more than 40 hours in any workweek unless the employee receives one and one-
28 half (1 ½) times such employee's regular rate of pay for all hours worked over 40
hours in the workweek. Eight (8) hours of labor constitutes a day's work.
Employment beyond eight (8) hours in any workday or more than six (6) days in

any workweek is permissible provided the employee is compensated for such overtime at not less than ... [o]ne and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek....

64. Labor Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

65. Labor Code § 200 defines wages as "all amounts of labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation." All such wages are subject to California's overtime requirements, including those set forth above.

66. Defendant's policies and/or practices of requiring Plaintiffs and Class Members to perform work off-the-clock is unlawful and results in overtime violations. As a result of this unlawful policy, Plaintiffs and Class Members have worked overtime hours for Defendant without being paid overtime premiums in violation of the Labor Code, the applicable IWC Wage Orders, and other applicable law.

67. Defendant has knowingly and willfully refused to perform its obligations to compensate Plaintiffs and Class Members for all premium wages for overtime work. Defendant is liable to Plaintiffs and Class Members alleged herein for the unpaid overtime and civil penalties, with interest thereon. Furthermore, Plaintiffs and Class Members are entitled to an award of attorneys' fees and costs as set forth below.

68. As a proximate result of the aforementioned violations, Plaintiffs and the Class have been damaged in an amount according to proof at time of trial.

FIFTH CAUSE OF ACTION
Failure to Provide Meal Periods
(Labor Code 226.7, 512 & IWC Wage Order 5-2001 ¶ 11)

69. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

1 70. Labor Code § 226.7 and 512 and IWC Wage Order 5-2001, § 11 require that
2 employers provide non-exempt employees with a first meal period of not less than 30 minutes
3 during which they are relieved of all duty before working more than five hours, and a second duty-
4 free meal period of not less than 30 minutes before working more than 10 hours per day.

5 71. To comply with the Labor Code, an employer must affirmatively relieve its
6 employee of all duty during the meal period, relinquish control over the employee's activities, and
7 permit the employee a reasonable opportunity to take an uninterrupted 30-minute break.

8 72. Labor Code § 226.7(c) and IWC Wage Order 5-2001, § 11 require an employer fails
9 to provide an employee a meal period as required to pay the employee one hour of pay at the
10 employee's regular rate of compensation for each workday that the required meal period is not
11 provided.

12 73. Defendant has maintained and enforced policies and/or practices pursuant to which
13 Plaintiffs and Class Members were required to receive, review and respond to messages *via* the
14 group messaging applications, text messages, and phone calls during meal breaks. Further,
15 Plaintiffs and Class Members were required to perform food preparation and customer service tasks
16 during their meal breaks. As a result, Defendant failed to provide Plaintiffs and Class Members
17 with the required meal periods or pay Plaintiffs and Class Members the wages due for missed meal
18 periods.

19 74. When Defendant paid meal period premiums, it failed to do so at the employee's
20 regular rate and instead paid the employees at their base hourly rate in violation of Labor Code §
21 226.7. Plaintiffs and Class Members have been damaged by Defendant's failure to pay meal period
22 premiums at their regular rate.

23 75. Defendant, therefore, is liable to Plaintiffs and Class Members for additional
24 compensation pursuant to Labor Code § 226.7(c) and Wage Order 5-2001, § ¶ 11.

25 **SIXTH CAUSE OF ACTION**
26 **Failure to Provide Rest Breaks**
 (Labor Code 226.7 & IWC Wage Order 5-2001 ¶ 12)

27 76. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
28 herein.

1 77. Labor Code § 226.7(b) prohibits an employer from requiring an employee to work
2 during any rest break mandated by an applicable wage order. Wage Order 5-2001, § ¶ 12 requires
3 that an employer authorize and permit all employees to take one 10-minute rest period for every 4
4 hours worked, or a portion thereof, which insofar as practicable shall be in the middle of each work
5 period.

6 78. Defendant has maintained and enforced policies and/or practices pursuant to which
7 Plaintiffs and Class Members were required to receive, review and respond to messages *via* the
8 group messaging applications, text messages, and phone calls during rest breaks. As a result,
9 Defendant did not authorize and permit Plaintiffs and Class Members to take legally compliant rest
10 breaks or pay Plaintiffs and Class Members the wages due for missed rest breaks.

11 79. When Defendant paid rest period premiums, it failed to do so at the employee's
12 regular rate and instead paid the employees at their base hourly rate in violation of Labor Code §
13 226.7. Plaintiffs and Class Members have been damaged by Defendant's failure to pay rest period
14 premiums at their regular rate.

15 80. Defendant therefore is liable to Plaintiffs and Class Members for damages pursuant
16 to Labor Code § 226.7(c) and Wage Order 5-2001, § ¶ 12.

17 **SEVENTH CAUSE OF ACTION**
18 **Failure to Provide Accurate Itemized Wage Statements**
19 **(Labor Code § 226, 1174, and 1174.5)**

20 81. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
21 herein.

22 82. Defendant does not provide Plaintiffs and Class Members with accurate itemized
23 wage statements as required by California law.

24 83. Labor Code § 226(a) provides:

25 Every employer shall, semimonthly or at the time of each payment of wages, furnish
26 each of his or her employees, either as a detachable part of the check, draft, or
27 voucher paying the employee's wages, or separately when wages are paid by
28 personal check or cash, an accurate itemized statement in writing showing (1) gross
wages earned, (2) total hours worked by the employee, except for any employee
whose compensation is solely based on a salary and who is exempt from payment
of overtime under subdivision (a) of Section 515 or any applicable order of the
Industrial Welfare Commission, (3) the number of piece-rate units earned and any

1 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,
2 provided that all deductions made on written orders of the employee may be
3 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of
4 the period for which the employee is paid, (7) the name of the employee and his or
5 her social security number, (8) the name and address of the legal entity that is the
6 employer, and (9) all applicable hourly rates in effect during the pay period and the
7 corresponding number of hours worked at each hourly rate by the employee. The
deductions made from payments of wages shall be recorded in ink or other indelible
form, properly dated, showing the month, day, and year, and a copy of the statement
or a record of the deductions shall be kept on file by the employer for at least four
years at the place of employment or at a central location within the State of
California.

8 84. IWC Wage Order 5-2001(7) also provides for this requirement.

9 85. Labor Code § 226(e) provides:

10 An employee suffering injury as a result of a knowing and intentional failure by an
11 employer to comply with subdivision (a) is entitled to recover the greater of all actual
12 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
13 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.

14 86. Labor Code § 1174 provides in part:

15 Every person employing labor in this state shall: (d) Keep, at a central location in
16 the state or at the plants or establishments at which employees are employed, payroll
17 records showing the hours worked daily by and the wages paid to, and the number
of piece-rate units earned by and any applicable piece rate paid to, employees
employed at the respective plants or establishments.

18 87. Defendant does not willfully provide timely, accurate itemized wage statements to
19 Plaintiffs and Class Members in accordance with Labor Code §§ 226(a) and 1174(d) and the IWC
20 Wage Orders. The wage statements Defendant provides to employees, including Plaintiffs and
21 Class Members, do not accurately reflect the premium pay to which they are entitled to for the
22 actual hours worked, the actual gross wages earned, the actual net wages earned, and the actual
23 hourly rate(s).

24 88. As a proximate result of the aforementioned violations, Defendant is liable to
25 Plaintiffs and Class Members alleged herein for the amounts described, with interest thereon, in an
26 amount according to proof at time of trial. Furthermore, Plaintiffs are entitled to an award of
27 attorneys' fees and costs as set forth below, pursuant to Labor Code § 226(e) and penalties pursuant
28 to Labor Code § 1174.5.

EIGHTH CAUSE OF ACTION

Waiting Time Penalties

(Labor Code §§ 201-203)

89. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

90. Defendant does not provide Plaintiffs and Class Members with their wages when due under California law after their employment with Defendant ends.

91. Labor Code § 201 provides: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

92. Labor Code § 202(a) provides:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

93. Labor Code § 203(a) provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

94. Some of the Class Members, including Plaintiffs, left their employment with Defendant during the statutory period, at which time Defendant owed them unpaid wages. These earned, but unpaid, wages derive from time spent working for the benefit of Defendant which went unrecorded and/or uncompensated.

95. Defendant willfully refused and continues to refuse to pay Plaintiffs and Class Members all the wages that were due and owed to them upon the end of their employment, in the form of wages owed for uncompensated, off-the-clock work, sick pay, meal and rest period premiums, as well as unpaid overtime. As a result of Defendant’s actions, Plaintiffs and Class Members have suffered and continue to suffer substantial losses, including lost earnings, and interest.

96. Defendant’s willful failure to pay Plaintiffs and Class Members the wages due and owing to them constitutes a violation of Labor Code §§ 201-202. As a result, Defendant is liable to

1 Plaintiffs and Class Members for all penalties owing pursuant to Labor Code §§ 201-203.

2 97. Labor Code § 203 provides that an employee's wages will continue as a penalty up
3 to thirty days from the time the wages were due. Therefore, Plaintiffs and Class Members are
4 entitled to such penalties pursuant to Labor Code § 203, plus interest.

5 98. As a proximate result of the aforementioned violations, Defendant is liable to
6 Plaintiffs and Class Members alleged herein for the amounts described, with interest thereon, in an
7 amount according to proof at time of trial.

8 **NINTH CAUSE OF ACTION**
9 **Unfair Competition Law Violations**
10 **(Bus. & Prof. Code § 17200)**

11 99. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
12 herein.

13 100. Business & Professions Code § 17200 (the "UCL") prohibits unfair competition in
14 the form of any unlawful, unfair, or fraudulent business act or practice. Business & Professions
15 Code § 17204 allows "any person who has suffered injury in fact and has lost money or property"
16 to prosecute a civil action for violation of the UCL.

17 101. During the Class Period and continuing to the present, Defendant has committed
18 unlawful, unfair, and/or fraudulent business acts and practices as defined by Business & Professions
19 Code § 17200, by failing to reimburse and indemnify Plaintiffs and similarly situated Class
20 Members for employment-related business expenses and losses, in violation of Labor Code § 2802;
21 failing to pay for all hours worked in violation of Labor Code §§ 200, 204, 510, 1182.11, 1182.12,
22 1194, 1194.2, 1197 and 1198; failure to provide, authorize and permit meal and rest breaks,
23 including failing to pay Plaintiffs and Class Members at their regular rates, in violation of Labor
24 Code § 226.7, 512, and IWC Wage Order 5-2001, §§ 11 and 12; failing to provide accurate pay
25 statements in violation of Labor Code §§ 226, 1174 and 1174.5; failing to pay sick time at the
26 appropriate hourly rate in violation of Labor Code § 246; and failure to pay all wages due and owing
27 at time of termination in violation of Labor Code §§ 201, 202 and 203.

28 102. During the Class Period and continuing to the present, Defendant has committed
unlawful, unfair, and/or fraudulent business acts and practices as defined by Business & Professions

1 Code § 17200, by failing to pay Employee Class Members their regular rate in violation of Labor
2 Code § 226.7 when paying meal and rest period premiums and by failing to pay Class Members
3 their regular rate when paying sick pay in violation of Labor Code § 246.

4 103. In order to discharge their managerial duties for Defendant, Plaintiffs and similarly
5 situated Managers were required, expected, and/or permitted by Defendant to use their own
6 personal cell phone and data/text plans. However, Defendant did not fully pay for expenses
7 incurred as a result of Plaintiffs' and Class Members' use of their own property or expenditures for
8 services used in the course of their work for Defendant. Likewise, Plaintiffs and similarly situated
9 Managers were required and expected to use their personal mobile devices for work related
10 activities before and after scheduled hours and during their meal and rest breaks. As such, Plaintiffs
11 and similarly situated Managers worked off-the-clock without compensation and were denied
12 legally compliant meal and rest breaks. However, when Defendant paid Plaintiffs and similarly
13 situated Class Members meal and rest period premiums, it did so at the employee's base hourly rate
14 instead of their regular rate. Similarly, Defendant compensated Plaintiffs and similarly situated
15 Class Members for sick time but did so at the employee's base hourly rate rather than the regular
16 rate. Because of the Labor Code violations alleged herein, Plaintiffs' and Class Members' pay
17 statements were non-compliant and they were not properly and timely paid all their wages at time
18 of termination.

19 104. As a direct and proximate result of Defendant's unlawful, unfair, and/or fraudulent
20 acts and practices described herein, Defendant has received and continues to hold ill-gotten gains
21 belonging to Plaintiffs and Class Members in the form of unreimbursed employee business
22 expenses and unpaid wages that reduced or offset compensation earned by Plaintiffs and Class
23 Members. As a direct and proximate result of Defendant's unlawful business practices, Plaintiffs
24 and Class Members have suffered economic injuries including, but not limited to out-of-pocket
25 business expenses and unpaid wages resulting in reductions or offsets to earned compensation.
26 Defendant has profited from its unlawful, unfair, and/or fraudulent acts and practices in the amount
27 of those business expenses and unpaid wages as well as interest accrued thereon.

28 105. Plaintiffs and similarly situated Class Members are entitled to restitution pursuant

1 to Business & Professions Code §§ 17203 and 17208 for all unpaid business expenses and unpaid
2 wages as well as interest thereon accruing, from four years prior to the filing of this action to the
3 date of such restitution, and Defendant should be required to disgorge all the profits and gains they
4 have reaped and restore such profits and gains to Plaintiffs and similarly situated Class Members,
5 from whom they were unlawfully taken.

6 106. Plaintiffs have assumed the responsibility of enforcement of the laws and public
7 policies specified herein by suing on behalf of themselves and other similarly situated members of
8 the public previously and presently employed by Defendant in California. Plaintiffs' success in
9 this action will enforce important rights affecting the public interest. Plaintiffs will incur a financial
10 burden in pursuing this action in the public interest. Therefore, an award of reasonable attorneys'
11 fees to Plaintiffs is appropriate pursuant to Code of Civil Procedure § 1021.5.

12 **TENTH CAUSE OF ACTION**
13 **The Labor Code Private Attorneys General Act of 2004**
14 **(Labor Code §§ 2699 *et seq.*)**

15 107. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth
16 herein.

17 108. As alleged above, Defendant failed to comply with the California Labor Code. As
18 such, Plaintiffs are "aggrieved employee(s)" as defined in Labor Code § 2699(a). Pursuant to Labor
19 Code § 2699, the Labor Code Private Attorneys General Act of 2004, Plaintiffs bring this action on
20 behalf of themselves and other current and former Managers against Peet's Coffee, and seek
21 recovery of applicable civil penalties as follows:

- 22 a. where civil penalties are specifically provided in the Labor code for each of
23 the violations alleged herein, Plaintiffs seek recovery of such penalties;
24 b. where civil penalties are not established in the Labor Code for each of the
25 violations alleged herein, Plaintiffs seek recovery of the penalties established in §
26 2699(e) of the Labor Code Private Attorneys General Act of 2004, and in
27 accordance with § 200.5 of the Labor Code.

28 109. On February 3, 2022, Plaintiff Marquez caused to be served written notice, *via*
certified mail, to the Labor and Workforce Development Agency and to Defendant, Peet's Coffee,

of Plaintiffs' intent to assert a cause of action pursuant to Labor Code §§ 2699 *et seq.*

110. The Labor and Workforce Development Agency declined to issue notice of its intention to pursue civil penalties in response to either Notice. Accordingly, Plaintiffs commence this PAGA claim for civil remedies as provided for under Labor Code § 2699.

111. Plaintiffs, on behalf of themselves and similarly situated Managers, requests relief as described below.

JURY DEMAND

Plaintiffs hereby request a trial by jury.

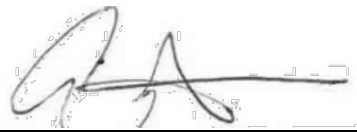
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following relief:

- A. That the Court determine that this action may be maintained as a class action under Code of Civil Procedure § 382, and define the Class as requested herein;
- B. For compensatory damages and interest thereon according to proof;
- C. For restitution and interest thereon according to proof;
- D. For civil and statutory penalties according to proof;
- E. For an injunction and declaratory relief;
- F. For reasonable attorneys' fees and costs according to proof;
- G. For such other and further relief as this Court may deem appropriate.

DATED: May 19, 2022

WYNNE LAW FIRM



By: Edward J. Wynne