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[Additional Counsel on Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT

JOSE ALCALA-LUNA, as an individual, and
on behalf of all similarly situated employees,

Plaintiff,

v.

ME GUSTA GOURMET FOODS, INC., and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 21STCV19578

CLASS ACTION

**[PROPOSED] FIRST AMENDED
COMPLAINT FOR DAMAGES**

1. Failure to Pay All Wages, Including Minimum Wages and Overtime Wages (Labor Code §§ 510, 1194);
2. Failure to Provide Rest Periods (Labor Code §§ 226.7, 512);
3. Failure to Provide Meal Periods (Labor Code §§ 226.7, 512);
4. Failure to Timely Pay Wages at Separation (Labor Code §§ 201, 202, 203);
5. Failure to Reimburse Employees for Necessary Business Expenditures (Labor Code § 2802(A));
6. Unfair Business Practices (Bus. Prof. Code § 17200 Et Seq.);
7. Failure to Provide Accurate Wage Statements; and
8. Violation of the Private Attorneys General Act, Labor Code section 2698 et seq.

DEMAND FOR JURY TRIAL

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Attorneys for Plaintiffs JOSE ALCALA-LUNA, JOSUE DIAZ PINEDA, VILMA DIAZ PINEDA, and MARIBEL LOZANO MARTINEZ, as individuals, and on behalf of all similarly situated employees,

1 Plaintiffs JOSE ALCALA-LUNA, JOSUE DIAZ PINEDA, VILMA DIAZ PINEDA, and
2 MARIBEL LOZANO MARTINEZ (“Plaintiffs”), on behalf of themselves, and all others
3 similarly situated, complains and alleges on information and belief as follows:

4 INTRODUCTION

5 1. This is a class action brought on behalf of Plaintiffs and the class he seeks to
6 represent (“Plaintiff Class”), pursuant to California Code of Civil Procedure section 382. Plaintiff
7 Class consists of all non-exempt, hourly-paid employees currently and/or formerly employed by
8 Defendant ME GUSTA GOURMET FOODS, INC. (“Defendant”) in the State of California
9 during the Class Period. The term “Class Period” is defined as four (4) years prior to the filing of
10 this complaint through the date of judgment. Plaintiffs reserve the right to amend this complaint
11 to reflect a different “Class Period” or “Plaintiff Class,” as further discovery is conducted.

12 2. Plaintiffs individually, and on behalf the class they seek to represent, seek relief
13 against Defendant for Defendant’s practice of violating the applicable Wage Orders, the
14 applicable Code of Regulations, and California Labor Codes, including: (1) failure to pay all
15 minimum and overtime wages, (2) failure to provide rest periods or compensation in lieu thereof,
16 (3) failure to provide meal periods or compensation in lieu thereof, (4) failure to pay wages at
17 separation, (5) failure to reimburse for necessary business expenditures; (6) failure to provide
18 accurate wage statements; (7) unfair business practices as set forth more fully herein. Further,
19 Plaintiffs further seeks civil penalties in connection with Defendant’s Labor Code violations
20 based on Labor Code section 2698 et seq., the Private Attorneys General Act of 2004 (“PAGA”).
21 These violations concern current and past employees of Defendant.

22 3. Defendant is a California corporation, and does business in the State of California.
23 Plaintiffs and proposed Plaintiff Class are employees who seek wages that Defendant has failed
24 and/or refused to pay all wages at termination to employees, including Plaintiffs.

25 4. At all relevant times herein, Defendant has consistently maintained and enforced
26 against Plaintiffs and Class Members the following unlawful policies and practices: (1) willfully
27 refusing to adequately pay Plaintiffs and Plaintiff Class for all hours worked, including minimum
28 and overtime wages; (2) willfully refusing to permit Plaintiffs and Plaintiff Class from taking

1 meal and/or rest periods; (3) willfully refusing to compensate Plaintiffs and certain members of
2 the Plaintiff Class all wages due and owing at the time Plaintiffs' and Plaintiff Class's
3 employment with Defendant ended; (4) willfully refusing to reimburse Plaintiffs and Plaintiff
4 Class for all necessary business expenditures; and (5) willfully failed to provide accurate itemized
5 wage statement to Plaintiffs and Plaintiff Class.

6 5. Plaintiffs bring this lawsuit seeking injunctive, restitution, and monetary relief
7 against Defendant, and each of them, on behalf of Plaintiffs individually, and on behalf of Plaintiff
8 Class to recover, among other things, unpaid wages, reimbursement of necessary business
9 expenditures, and benefits, interest, penalties, liquidated damages, attorney's fees, and costs
10 pursuant to California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226.7, 510,
11 512, 2698 et al, and 2802 and California Code of Civil Procedure section 1021.5, and applicable
12 provisions of IWC Wage Order 1-2001. Plaintiffs reserve the right to name additional
13 representatives throughout the State of California.

14 **JURISDICTION AND VENUE**

15 6. Venue is proper in this judicial district and the County of Los Angeles, pursuant
16 to Code of Civil Procedure section 395, because the Defendant maintains its location and transacts
17 business in this county, the obligations and liability arise in this county, and work was performed
18 by Plaintiffs and the hourly non-exempt Plaintiff Class made the subject of this action in the
19 County of Los Angeles, State of California. Furthermore, Defendant employs/employed
20 Plaintiffs and Plaintiff Class within the State of California, and the unlawful acts alleged herein
21 have a direct effect on Plaintiffs and Plaintiff Class.

22 7. The California Superior Court has jurisdiction in the matter because the individual
23 claims are under the seventy-five thousand dollar (\$75,000.00) individual jurisdictional threshold
24 and the five million dollars (\$5,000,000.00) aggregate jurisdictional threshold for federal court
25 and, upon information and belief, Plaintiffs and Defendant are residents of and/or domiciled in
26 the State of California. Further, there is no federal question at issue as the issues herein are based
27 solely on California statutes and law, including the California Labor Code, Industrial Welfare
28 Commission Wage Orders, Code of Civil Procedure, California Rules of Court, and the Business

1 and Professions Code. Thus, the above-entitled court maintains appropriate jurisdiction to hear
2 this matter.

3 ADMINISTRATIVE PREREQUISITES

4 8. Under Labor Code section 2699.3, subdivision (a), a plaintiff may bring a cause
5 of action under PAGA only after giving the Labor Workforce Development Agency (“LWDA”)
6 and the employer notice of the Labor Code sections alleged to have been violated, and after
7 receiving notice from the LWDA of its intention not to investigate, or after 65 days have passed
8 without notice from the LWDA.

9 9. By this complaint, Plaintiffs bring this case as a representative action seeking
10 penalties for the State of California in a representative capacity, as provided by PAGA, Labor
11 Code section 2698 et seq., to the extent permitted by law, as aggrieved employees who were
12 employed by Defendant and did not receive all wages due, was not paid overtime, was not able
13 to take lawful meal and rest breaks, did not receive all wages due at the termination of
14 employment, did not receive accurate itemized wage statements, and were not reimbursed for all
15 necessary business expenditures..

16 10. On March 30, 2022, prior to the filing of this complaint, Plaintiffs Josue Diaz
17 Pineda, Maribel Lozano Martinez, and Vilma Diaz Pineda. gave written notice of the specified
18 provisions alleged to have been violated, including the facts and theories to support the alleged
19 violations, as required by Labor Code section 2699.3. This written notice was given via certified
20 mail to Defendant, and to the LWDA by electronically filing the notice via the Department of
21 Industrial Relations website. Plaintiffs were given LWDA case numbers of LWDA-CM-876202-
22 22; LWDA-CM-876204-22; and LWDA-CM-876200-22. A true and correct copy of Plaintiffs’
23 notices to the LWDA and Defendants, dated March 30, 2022, is attached hereto as Exhibit A.

24 11. The 65-day period for the LWDA to provide notice of its intent to investigate
25 Plaintiffs’ claims have been exhausted and the LWDA has failed to provide notice. As such
26 Plaintiffs amend this complaint pursuant to Labor Code section 2699.3, subdivision (a)(2)(C):
27 “Notwithstanding any other provision of law, a plaintiff may as a matter of right amend an
28 existing complaint to add a cause of action arising under this part at any time within 60 days of

1 the time periods specified in this part.

2 THE PARTIES

3 **Plaintiffs**

4 12. Plaintiff JOSE ALCALA-LUNA ("Plaintiff Alcala-Luna") was employed by the
5 Defendant beginning in or around November 2018 until in or about June 2019, as a non-exempt
6 hourly employee. At all relevant times herein, Plaintiff Alcala-Luna was employed by Defendant
7 in a non-exempt, hourly position, and was entitled to compensation for all hours worked,
8 overtime compensation, and penalties from Defendant. Each member of the Plaintiff Class is
9 identifiable, current and/or formerly similarly situated persons who were employed in non-
10 exempt hourly positions in California for the Defendant during the Class Period.

11 13. Plaintiff JOSUE DIAZ PINEDA ("Plaintiff Josue Diaz Pineda") at various
12 relevant times herein, was an employee of the Defendant and entitled to compensation for all
13 hours worked, minimum, regular, overtime compensation, meal and rest premiums,
14 reimbursement for necessary job-related expenses, accurate wage statements and penalties from
15 Defendant. Plaintiff Josue Diaz Pineda was employed by the Defendant from on or about 2017
16 to on or about October 13, 2021, in the County of Los Angeles at various times herein relevant.
17 Plaintiff Josue Diaz Pineda was employed by the Defendant during the Class Period in a non-
18 exempt hourly position. Each of the Plaintiff Class members are identifiable, current and/or
19 formerly similarly situated persons who were employed in non-exempt hourly positions in
20 California for the Defendant during the Class Period.

21 14. Plaintiff VILMA DIAZ PINEDA ("Plaintiff Vilma Diaz Pineda") at various
22 relevant times herein, was an employee of the Defendant and entitled to compensation for all
23 hours worked, minimum, regular, overtime compensation, meal and rest premiums,
24 reimbursement for necessary job-related expenses, accurate wage statements and penalties from
25 Defendant. Plaintiff Vilma Diaz Pineda was employed by the Defendant from on or about
26 October 27, 2019 to on or about April, 2021, in the County of Los Angeles at various times
27 herein relevant. Plaintiff was employed by the Defendant during the Class Period in a non-
28 exempt hourly position. Each of the Plaintiff Class members are identifiable, current and/or

1 formerly similarly situated persons who were employed in non-exempt hourly positions in
2 California for the Defendant during the Class Period.

3 15. Plaintiff MARIBEL LOZANO MARTINEZ (“Plaintiff Martinez”) at various
4 relevant times herein, was an employee of the Defendant and entitled to compensation for all
5 hours worked, minimum, regular, overtime compensation, meal and rest premiums,
6 reimbursement for necessary job-related expenses, accurate wage statements and penalties from
7 Defendant. Plaintiff Martinez was employed by the Defendant from on or about 2012 to on or
8 about October 12, 2021, in the County of Los Angeles at various times herein relevant. Plaintiff
9 Martinez was employed by the Defendant during the Class Period in a non-exempt hourly
10 position. Each of the Plaintiff Class members are identifiable, current and/or formerly similarly
11 situated persons who were employed in non-exempt hourly positions in California for the
12 Defendant during the Class Period.

13 **Defendants**

14 16. Plaintiffs are informed and believes, and based thereon alleges that Defendant is a
15 California corporation, that controls and operates locations within the State of California in the
16 County of Los Angeles for the purposes of providing food services. On information and belief,
17 and based thereon, Plaintiffs allege that Defendant is conducting business in good standing in
18 California.

19 17. Plaintiffs are ignorant of the true names, capacities, relationships and extent of
20 participation in the conduct herein alleged, of the Defendants sued herein as DOES 1 through 50,
21 inclusive, but on information and belief alleges that said Defendants are legally responsible for
22 the payment of wages, and the payment of rest and meal period compensation, to Plaintiff and
23 Plaintiff Class by virtue of their unlawful practices, and therefore sues these Defendants by such
24 fictitious names. Plaintiffs will amend this complaint to allege the true names and capacities of
25 the DOE Defendants when ascertained.

26 18. Plaintiffs are informed and believes, and based thereon alleges, that each
27 Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried
28 out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each

1 Defendant is legally attributable to the other Defendants. Furthermore, Defendants in all respects
2 acted as the employer and/or joint employer of Plaintiffs and Plaintiff Class.

3 19. Plaintiffs are informed and believes, and based thereon alleges, that each
4 Defendant acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee,
5 proxy, managing agent, and/or principal of the co-Defendants, and in performing the actions
6 mentioned below was acting, at least in part, within the course and scope of that authority as such
7 agent, proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or
8 principal with the permission and consent of the co-Defendants. Plaintiffs also allege the acts of
9 each Defendant are legally attributable to the other Defendants.

10 20. Plaintiffs are informed and believes, and based thereon alleges, that each of the
11 Defendants sued herein was, at all relevant times, the employer, owner, shareholder, principal,
12 joint venture, proxy, agent, employee, supervisor, representative, manager, managing agent, joint
13 employer and/or alter-ego of the remaining Defendants, and was acting, at least in part, within
14 the course and scope of such employment and agency, with the express and implied permission,
15 consent and knowledge, approval and/or ratification of the other Defendants. The above co-
16 Defendants, managing agents, and supervisors aided, abetted, condoned, permitted, approved,
17 authorized and/or ratified the unlawful acts described herein.

18 **GENERAL ALLEGATIONS**

19 21. Plaintiffs and the Plaintiff Class are, and at all times relevant herein have been,
20 non-exempt employees within the meaning of the California Labor Code and the implementing
21 rules and regulations of IWC California Wage Orders.

22 22. Plaintiffs are informed and believes, and based thereon alleges, that Defendant's
23 policies and practices described herein are common across each of Defendant's locations.

24 23. Plaintiffs are informed and believes, and based thereon alleges, that Defendant
25 instituted a policy and practice against its employees wherein minimum and overtime wages due
26 were not paid in compliance with California law. Specifically, Plaintiffs and Plaintiff Class
27 regularly worked eight (8) to twelve (12) hour shifts and were not paid the legally mandated
28 minimum and overtime wages for all hours worked. Plaintiffs are informed and believes that

1 Defendant paid Plaintiffs and Plaintiff Class a flat number of wages regardless of the actual
2 number of hours worked. Accordingly, Plaintiffs and Plaintiff were not properly compensated
3 for all hours worked. Plaintiffs and Plaintiff Class were harmed by Defendant's failure to pay
4 minimum and overtime wages for hours worked over eight (8) in a day, or double-overtime wage
5 for hours worked over twelve (12) in a day. Defendant instituted the aforementioned practice of
6 in an effort to cut costs and gain an unfair advantage over the market thus harming Plaintiffs and
7 Plaintiff Class.

8 24. Further, Plaintiffs is informed and believes, and based thereon alleges, that
9 Defendant was obligated to provide Plaintiffs and Plaintiff Class with a work-free, thirty (30)
10 minute meal period within the first five (5) hours of a shift for workdays in excess of six (6) hours,
11 and a second thirty (30) minute meal period within the tenth hour of a shift for workdays in excess
12 of ten (10) hours, in compliance with Labor Code section 512. Defendant routinely denied
13 Plaintiff and Plaintiff Class a full, thirty (30) minute, off-duty meal period when they worked in
14 excess of six (6) hours within the first five (5) hours of their shifts, and routinely denied Plaintiffs
15 and Plaintiff Class a second thirty (30) minute meal period within the tenth hour of their shifts.
16 On information and belief, neither Plaintiffs nor Plaintiff Class waived their lawful meal periods
17 or received compensation from Defendant for their missed meal periods.

18 25. Additionally, Defendant was obligated to provide Plaintiffs and Plaintiff Class
19 with a ten (10) minute rest break for every four (4) hours, or major fraction thereof, worked each
20 day. Defendant prevented Plaintiffs and Plaintiff Class from taking rest breaks throughout their
21 employment in order to complete deliveries more quickly, prepare food products, and meet time
22 sensitive deadlines.

23 26. In addition, Defendant failed to provide Plaintiffs and the Plaintiff Class with
24 accurate itemized wage statements listing the accurate gross wages earned total hours worked, all
25 deductions, net wages earned, the inclusive dates of the period for which the employee is paid,
26 name of the employee, last four digits of employee's social security number or an employee
27 identification number other than a social security number, the name and address of the legal entity
28 that is the employer, and all applicable hourly rates in effect during the pay period and the

1 corresponding number of hours worked at each hourly rate by the employee.

2 27. For at least four years prior to the filing of this action and through to the present,
3 Plaintiffs allege that Defendant consistently maintained and enforced the following unlawful
4 practices and policies against its employees, in violation of California state wage and hour laws:

5 (a) Defendant had a consistent policy of not paying Plaintiffs and the Plaintiff
6 Class the legally required minimum and overtime wages, as Defendant
7 failed to compensate Plaintiffs and Plaintiff Class at the legally required
8 rate of pay for all hours worked;

9 (b) Defendant had a consistent policy of requiring Plaintiff Class within the
10 State of California, including Plaintiffs, to work at least five (5) hours
11 without a lawful meal period, or work more than ten (10) hours without a
12 lawful second meal period, and failing to pay such employees one (1) hour
13 of pay at the employees' regular rate of compensation for each workday
14 that the meal period was not provided, all in violation of, among others,
15 Labor Code sections 201, 202, 226.7, and 512, and applicable Industrial
16 Welfare Commission Wage Orders, in one or more of the following
17 manners:

18 (i) employees were required to work through their daily meal
19 period(s); and

20 (ii) employees were restricted in their ability to take a meal
21 period;

22 (c) Defendant had a consistent policy of failing to provide Plaintiff Class
23 within the State of California, including Plaintiffs, rest periods of at least
24 (10) minutes per four (4) hours worked or major fraction thereof and failing
25 to pay such employees one (1) hour of pay at the employees' regular rate
26 of compensation for each workday that the rest period is not provided, as
27 required by California state wage and hour laws, in one or more of the
28 following manners:

- (i) employees were required to work without being provided a minimum ten-minute rest period for every four hours, or major fraction thereof, worked and were not compensated with one hour of pay at their regular rate of pay for each workday that a rest period was not provided; and
- (ii) employees were neither permitted nor authorized to take lawful rest periods.

(d) All Plaintiff Class who are or were employed by Defendant during the Class Period to be determined and who were not provided accurate itemized wage statements that complied with Labor Code section 226;

(e) All Plaintiff Class who have been employed by Defendant in the State of California as non-exempt, hourly-paid employees who, within the four years prior to the filing of this class action complaint to the present, separated their employment from Defendant and have not been paid wages pursuant to Labor Code section 203 and are owed restitution for waiting time penalties deriving from such wages;

28. Plaintiffs are informed and believes, and based thereon alleges, that Defendant willfully failed to pay Plaintiff and Plaintiff Class all wages earned, including minim and overtime wages and compensation for missed meal and rest periods, in a timely manner upon or after termination of their employment with Defendant.

29. Plaintiffs are informed and believes, and based thereon alleges, that Defendant currently employs, and during the relevant liability period has employed, dozens or possibly hundreds of employees in the State of California in non-exempt positions.

30. At relevant times herein, Plaintiffs and the Plaintiff Class were employed by Defendant and were paid predominantly on an hourly basis.

31. On information and belief, Plaintiffs allege that Defendant's actions as described throughout this complaint were willful.

32. On information and belief, Plaintiffs allege that Defendant willfully failed to pay

1 the legal wages, failed to provide legal rest and meal periods, and willfully failed to pay one
2 hour's wages in lieu of rest and meal periods, when each such employee quit or was discharged.

3 33. Plaintiffs, on behalf of themselves and all other Plaintiff Class, brings this action
4 pursuant to Labor Code sections 201, 202, 203, 204, 218, 218.5, 218.6, 510, 512, 1194, 1197, and
5 2802; California Business and Professions Code section 17200 et seq., and Code of Regulations,
6 title 8, section 11000 et seq., seeking unpaid wages, unpaid rest and meal period compensation,
7 penalties, reimbursement for necessary business expenditures, and other equitable relief, and
8 reasonable attorneys' fees and costs.

9 34. Plaintiffs, on behalf of themselves and Plaintiff Class, pursuant to Business and
10 Professions Code sections 17200 through 17208, also seeks restitution for the unfair, unlawful,
11 or fraudulent practices alleged in this complaint.

12 **CLASS ALLEGATIONS**

13 35. Plaintiffs bring this action on behalf of themselves and all others similarly situated
14 as a class action pursuant to section 382 of the California Code of Civil Procedure. Plaintiffs seek
15 to represent Classes composed of and defined as follows:

16 (a) All persons who are employed or have been employed by Defendant in the
17 State of California, and who, within the four years prior to the filing of this
18 complaint to the present, have worked as a non-exempt employee and were not
19 paid all wages owed, including, but not limited to, the legally requisite minimum
20 and overtime rate;

21 (b) All persons who are employed or have been employed by Defendant as non-
22 exempt, hourly-paid employees who, within the four years prior to the filing of
23 this class action complaint to the present, have worked as non-exempt employees
24 and have not been provided a meal period for every five hours or major fraction
25 thereof worked per day, and were not provided one hour's pay for each day on
26 which such meal period was not provided;

27 (c) All persons who are employed or have been employed by Defendant in the
28 State of California as non-exempt, hourly-paid employees, and who, within the

1 four years prior to the filing of this class action complaint to the present, have
2 worked as non-exempt employees and have not been provided a rest period for
3 every four hours or major fraction thereof worked per day, and were not provided
4 compensation of one hour's pay for each day on which such rest period was not
5 provided;

6 (d) All persons who have been employed by Defendant in the State of California
7 as non-exempt, hourly-paid employees who, within the four years prior to the
8 filing of this class action complaint to the present, separated their employment
9 from Defendant and have not been paid wages pursuant to Labor Code section 203
10 and are owed restitution for waiting time penalties deriving from such wages;

11 (e) All persons who have been employed by Defendant in the State of California
12 during the Class Period who were not provided accurate itemized wage statements
13 that complied with Labor Code section 226;

14 (f) All persons who are employed or have been employed by Defendant in the
15 State of California as non-exempt, hourly-paid employees, and who, within the
16 four years prior to the filing of this class action complaint to the present, have
17 worked as non-exempt employees and have not been reimbursed for all necessary
18 business expenditures.

19 36. Plaintiffs reserve the right under rule 3.764 of the California Rules of Court, to
20 amend or modify the class descriptions with greater specificity or further division into subclasses
21 or limitation to particular issues.

22 37. This action has been brought and may properly be maintained as a class action
23 under the provisions of section 382 of the Code of Civil Procedure because there is a well-defined
24 community of interest in the litigation and the proposed Classes are easily ascertainable.

25 **A. Numerosity**

26 38. The potential members of each Class defined herein are so numerous that joinder
27 of all the members of the Class is impracticable. While the precise number of the Plaintiff Class
28 has not been determined at this time, Plaintiffs are informed and believes that Defendant currently

1 employs, and during the relevant time period employed, hundreds of employees in positions as
2 Defendant's non-exempt employees in California, who are or have been affected by Defendant's
3 unlawful practices as alleged herein.

4 39. Accounting for employee turnover during the relevant periods necessarily
5 increases this number substantially. Upon information and belief, Plaintiffs allege Defendant's
6 employment records would provide information as to the number and location of all Plaintiff
7 Class. Joinder of all members of the proposed Classes is not practicable.

8 **B. Commonality**

9 40. Common questions of law and fact predominate over any questions affecting only
10 the individual Plaintiff Class. These common questions of law and fact include, without
11 limitation:

- 12 (a) Whether Plaintiffs and Plaintiff Class are entitled to overtime
13 compensation from Defendant under applicable IWC Wage Orders,
14 regulations and statutes for hours worked over eight (8) per workday or
15 over forty (40) in a work week;
- 16 (b) Whether Plaintiffs and Plaintiff Class are entitled to minimum wage
17 compensation from Defendant under applicable IWC Wage Orders,
18 regulations and statutes for all hours worked;
- 19 (c) Whether Defendant violated Labor Code sections 226.7 and 512, section 1
20 of the IWC Wage Orders, and Code of Regulations, title 8, section 11000
21 et seq. by failing to provide a lawful meal period to non-exempt employees
22 within the first five hours of their shifts on days they worked in excess of
23 six (6) hours and by failing to compensate said employees one hour's
24 wages in lieu of meal periods;
- 25 (d) Whether Defendant violated Labor Code section 226.7, section 1 of the
26 IWC Wage Orders, and Cal. Code Regs., title 8, section 11000 et seq. by
27 failing to provide daily rest periods to non-exempt employees for every
28 four hours or major fraction thereof worked and by failing to compensate

1 said employees one hour's wages in lieu of rest periods;

- 2 (e) Whether Defendant violated sections 201, 202 and 203 of the Labor Code
3 by failing to pay all earned wages and/or premium wages due and owing
4 at the time that any Class Member's employment with Defendant
5 terminated, voluntarily or involuntarily;
- 6 (f) Whether Defendant violated sections 226 of the Labor Code by failing to
7 provide Plaintiffs and Plaintiff Class accurate itemized wage statements;
- 8 (g) Whether Defendant violated section 17200 et seq. of the Business and
9 Professions Code, Labor Code sections 201, 202, 203, 351, 226.7, 510,
10 512, 1194, 1199, 1174, and applicable IWC Wage Orders, which violation
11 constitutes a violation of fundamental public policy;
- 12 (h) Whether Defendant failed to reimburse its employees for all necessary
13 business expenditures in violation of Labor Code section 2802; and
- 14 (i) Whether Plaintiffs and Plaintiff Class are entitled to equitable relief
15 pursuant to Business and Professions Code section 17200 et seq.

16 **C. Typicality**

17 41. Plaintiffs' claims are typical of the claims of the Plaintiff Class. Plaintiffs and all
18 Plaintiff Class sustained injuries and damages arising out of and caused by Defendant's common
19 course of conduct in violation of California laws, regulations, and statutes as alleged herein.

20 **D. Adequacy of Representation**

21 42. Plaintiffs will fairly and adequately represent and protect the interests of all
22 Plaintiff Class. Counsel is competent and experienced in litigating large employment class
23 actions.

24 **E. Superiority of Class Action**

25 43. A class action is superior to other available means for the fair and efficient
26 adjudication of this controversy. Individual joinder of all each member of the Plaintiff Class is
27 not practicable, and questions of law and fact common to each Class predominate over any
28 questions affecting only individual members of the Class. Each member of the Plaintiff Class has

1 been damaged and is entitled to recovery by reason of Defendant's unlawful policies and practices
2 alleged in the complaint.

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

7 **FIRST CAUSE OF ACTION**

8 **FAILURE TO PAY ALL WAGES**

9 **(Plaintiffs and Plaintiff Class against Defendant)**

10 45. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
11 forth herein.

12 46. Upon information and belief, Defendant maintains, and has maintained throughout
13 the Class Period, a consistent policy and practice of failing to pay wages, including minimum
14 wage and overtime, for hours actually worked.

15 47. As a result of Defendant's unlawful acts, Plaintiffs and Plaintiff Class have been
16 deprived of overtime compensation in amounts to be determined at trial, and are entitled to
17 recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant
18 to Labor Code sections 1194 and 1199.

19 48. Upon information and belief, Plaintiffs and Plaintiff Class have been denied
20 wages, including overtime, from Defendant's policy of obligating Plaintiff and Class Members
21 to work through meal periods after clocking-out, working prior to clocking-in, and after clocking-
22 out. Further, Plaintiffs are informed and believes Defendant routinely paid Plaintiffs and Plaintiff
23 Class a flat amount of money, below minimum wage, regardless of the number of hours worked.
24 As a result of Defendant's policy of not paying employees at least one and one half their regular
25 rate of pay for overtime work performed over eight (8) hours in a day and or over forty (40) hours
26 in a week. In addition, Plaintiffs and Class Members are entitled to double regular rate of pay for
27 hours worked over twelve (12) worked in a day, or for hours worked after the first eight (8) hours
28 worked on the seventh (7th) consecutive day of work. Plaintiffs and Class Members are entitled

1 to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs
2 pursuant to Labor Code sections 1194 and 1199.

3 49. Plaintiffs seek to recover in a civil action the unpaid balance of the full amount of
4 the unpaid wages resulting from Defendant's unpaid wage violations, including interest thereon,
5 reasonable attorney's fees and costs of suit, penalties, and liquidated damages to the fullest extent
6 permissible, including those permitted pursuant to Labor Code sections 1194 and 1194.2 and
7 Code of Civil Procedure section 1021.5.

8 50. Wherefore, Plaintiffs and Plaintiff Class request relief as described herein and
9 below.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**
12 **(Plaintiffs and Plaintiff Class against Defendant)**

13 51. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
14 forth herein.

15 52. On information and belief, during the rest period liability period, Defendant did
16 not permit or authorize Plaintiffs and Plaintiff Class to take rest periods.

17 53. Plaintiffs and Plaintiff Class were not provided timely, lawful duty-free rest
18 periods for every four hours of their shift or major fraction thereof.

19 54. Defendant maintains, and has maintained throughout the Class Period, a policy
20 and practice of failing to provide lawful rest periods to Plaintiffs and Plaintiff Class due in part to
21 Defendant's failure to adequately provide staffing to ensure Plaintiffs and Plaintiff Class could
22 be completely relieved of all work duties. In addition, Defendant directed Plaintiffs and Plaintiff
23 Class to take breaks while making deliveries for Defendant. Accordingly, Defendant failed to
24 provided Plaintiffs and Plaintiff Class an adequate opportunity to take an uninterrupted rest
25 period.

26 55. By its failure to provide rest periods for every four hours or major fraction thereof
27 worked per day to Plaintiffs and Plaintiff Class, and by its failure to provide compensation for
28 such unprovided rest periods, as alleged above, Defendant willfully violated the provisions of

1 Labor Code section 226.7 and section 1 of the IWC Wage Orders.

2 56. Plaintiffs and Plaintiff Class did not voluntarily or willfully waive rest periods.

3 57. As a result of the unlawful acts of Defendant, Plaintiffs and each Class Member
4 he seeks to represent have been deprived of premium wages in amounts to be determined at trial,
5 and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees,
6 and costs, under Labor Code sections 203, 218.5, 226, 226.7, and 1194, and applicable IWC Wage
7 Orders.

8 58. Pursuant to the Labor Code, Plaintiffs seek to recover in a civil action the unpaid
9 balance of the full amount of the unpaid wages, including interest thereon, reasonable attorney's
10 fees and costs of suit to the fullest extent permissible, including those permitted pursuant to Labor
11 Code section 226.7 and Code of Civil Procedure section 1021.5.

12 59. Wherefore, Plaintiffs and Plaintiff Class request relief as described herein and
13 below.

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO PROVIDE MEAL PERIODS**

16 **(Plaintiffs and Plaintiff Class against Defendant)**

17 60. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
18 forth herein.

19 61. Defendant maintains, and has maintained throughout the Class Period, a policy
20 and practice of failing to provide timely lawful work-free meal periods to Plaintiffs and Plaintiff
21 Class, due in part to Defendant's failure to adequately additional workers to complete all job
22 assignments, including deliveries, preparing food, loading shipments, for the days on which non-
23 exempt employees work periods in excess of six (6) hours or a second meal period on days on
24 which non-exempt employees work periods in excess of ten (10) hours. Defendant failed to
25 provide Plaintiffs and Plaintiff Class with compensation for their missed meal periods.

26 62. Defendant failed to provide Plaintiffs and Plaintiff Class from taking timely meal
27 breaks of not less than thirty (30) minutes as required by the Labor Code during the relevant class
28 period, as documented in Plaintiff's time records maintained by Defendant. In addition,

1 Defendant had a policy and practice of denying Plaintiffs and Plaintiff Class a second meal period
2 when they worked over ten (10) hours in a day. Plaintiffs did not waive his second meal period
3 nor did Defendant pay Plaintiffs and Plaintiff Class a meal period premium.

4 63. By failing to provide meal periods on the days non-exempt employees worked
5 periods in excess of six (6) hours, or a second meal period on the days non-exempt employees
6 worked periods in excess of ten (10) hours, and failing to compensate said employees one hour's
7 wages in lieu of meal periods, as alleged above, Defendant willfully violated the provisions of
8 Labor Code sections 226.7 and 512, section 1 of the IWC Wage Orders, and Cal. Code Regs.,
9 title 8, section 11000 *et seq.*

10 64. Plaintiffs and Plaintiff Class did not voluntarily or willfully waive meal periods.

11 65. As a result of the unlawful acts of Defendant, Plaintiffs and each Class Member
12 Plaintiffs seek to represent have been deprived of premium wages in amounts to be determined at
13 trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys'
14 fees, and costs, under Labor Code sections 203, 218.5, 226, 226.7, and 1194, and applicable IWC
15 Wage Orders.

16 66. Plaintiffs seek to recover in a civil action the unpaid balance of the full amount of
17 the unpaid wages resulting from Defendant's meal period violations including interest thereon,
18 reasonable attorney's fees and costs of suit, and penalties to the fullest extent permissible
19 including those permitted pursuant to Labor Code sections 226.7, 512 and Code of Civil
20 Procedure section 1021.5.

21 67. Wherefore, Plaintiffs and Plaintiff Class request relief as described herein and
22 below.

23 **FOURTH CAUSE OF ACTION**

24 **FAILURE TO TIMELY PAY WAGES AT SEPARATION**

25 **(Plaintiffs and Plaintiff Class against Defendant)**

26 68. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
27 forth herein.

28 69. Sections 201 and 202 of the California Labor Code require Defendant to pay its

1 employees all wages due within 72 hours of termination of employment. Section 203 of the Labor
2 Code provides that if an employer willfully fails to timely pay such wages the employer must, as
3 a penalty, continue to pay the subject employees' wages until the back wages are paid in full or
4 an action is commenced. The penalty cannot exceed 30 days of wages.

5 70. Plaintiffs and Plaintiff Class are entitled to compensation for all forms of wages
6 earned, including, but not limited to, minimum and overtime wages earned but not paid,
7 compensation for unprovided rest periods and unprovided meal periods, but to date have not
8 received such compensation, therefore entitling them Labor Code section 203 penalties.

9 71. More than thirty (30) days have passed since Plaintiffs and affected Plaintiff Class
10 have left Defendant's employ, and on information and belief, they have not received payment
11 pursuant to Labor Code section 203. As a consequence of Defendant's willful conduct in not
12 paying all earned wages, Plaintiffs and the affected Plaintiff Class are entitled to thirty (30) days
13 wages as a penalty under Labor Code section 203 for failure to pay legal wages.

14 72. Plaintiffs and the affected Plaintiff Class are also entitled to an additional thirty
15 (30) days wages as a penalty under Labor Code section 203 for willful failure to pay one hour's
16 wages in lieu thereof for denied rest and meal periods, together with interest thereon and
17 attorneys' fees and costs.

18 73. Plaintiffs seek to recover in a civil action all remedies to the fullest extent
19 permissible including those permitted pursuant to Labor Code section 203.

20 74. Wherefore, Plaintiffs and the affected Plaintiff Class request relief as described
21 herein and below.

22 **FIFTH CAUSE OF ACTION**

23 **Failure to Indemnify for Expenditures**

24 **(Plaintiffs and Plaintiff Class against all Defendant)**

25 75. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
26 forth herein.

27 76. Labor Code section 2802 states, "An employer shall indemnify his or her
28 employee for all necessary expenditures or losses incurred by the employee in direct consequence

1 of the discharge of his or her duties” (Lab. Code, § 2802.)

2 77. Plaintiffs and the Plaintiff Class were not reimbursed by Defendant for necessary
3 expenditures as a direct consequence of the discharge of their duties. Specifically, Defendant had
4 a corporate practice and policy of requiring Plaintiffs and Plaintiff Class to shoulder the burden
5 of Defendant's cost of doing business by failing to reimburse Plaintiffs and Plaintiff Class for
6 necessary business expenditures by requiring Plaintiffs and Plaintiff Class to utilize their personal
7 cell phone for work-related purposes, including, but not limited to, using it for navigation and
8 communicating with managers/supervisors.

9 78. Defendant knowingly, willingly, and intentionally attempted to offset the cost of
10 doing business on the Plaintiffs and Plaintiff Class.

11 79. Defendant has and or had a corporate practice and policy of requiring Plaintiffs
12 and Plaintiff Class to shoulder the burden of Defendant’s cost of doing business by failing to
13 reimburse Plaintiffs and Plaintiff Class for necessary expenditures.

14 80. Accordingly, Plaintiffs and Plaintiff Class are entitled to an award of “necessary
15 expenditures or losses” in accordance with Labor Code section 2802, which shall also include all
16 reasonable costs, including, but not limited to, attorneys’ fees and interest.

17 **SIXTH CAUSE OF ACTION**

18 **VIOLATION OF UNFAIR COMPETITION LAW**

19 **(Plaintiffs and Plaintiff Class against Defendant)**

20 81. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
21 forth herein.

22 82. On information and belief, Plaintiffs allege that Defendant engaged in conduct and
23 maintained policies and practices that constitute false, fraudulent, unlawful, unfair, and deceptive
24 business practices in violation of Business and Professions Code section 17200 et seq. (hereinafter
25 the “Unfair Competition Law”). Plaintiffs allege that each of the following policies and practices
26 of Defendant violate the Unfair Competition Law:

- 27 (a) requiring employees to work in excess of six (6) hours per day without
28 being provided a lawful meal period, or requiring employees to work in

1 excess of ten (10) hours without being provided a lawful second meal
2 period, and failing to compensate such employees with one hour of pay at
3 their regular rate of compensation for each workday that a meal period was
4 not provided;

5 (b) requiring employees to work without being provided a minimum ten-
6 minute rest period for every four hours or major fraction thereof worked,
7 and failing to compensate such employees with one hour of pay at their
8 regular rate of compensation for each workday that a rest period was not
9 provided;

10 (c) failing to provide accurate itemized wage statements;

11 (d) failing to reimburse employees for all necessary business expenditures; and

12 (e) failing to pay all earned wages, including double regular time wages, to
13 Plaintiffs and Plaintiff Class.

14 83. The actions of Defendant as alleged within this complaint constitute false,
15 fraudulent, unlawful, unfair, and deceptive business practices, within the meaning of Business
16 and Professions Code section 17200 et seq.

17 84. Plaintiffs and Plaintiff Class are entitled to equitable relief against such unlawful
18 practices in order to prevent future damage, for which there is no adequate remedy at law, and to
19 avoid a multiplicity of lawsuits.

20 85. As a result of its unlawful acts, Defendant has reaped and continues to reap unfair
21 benefits and unlawful profits at the expense of Plaintiffs and Plaintiff Class. Defendant should
22 restore to Plaintiffs and Plaintiff Class the wrongfully withheld wages pursuant to Business and
23 Professions Code section 17203. Plaintiffs are informed and believes, and thereon alleges, that
24 Defendant has been unjustly enriched through Defendant's unlawful, unfair, and fraudulent
25 business practices as alleged throughout this complaint. Plaintiffs are informed and believes, and
26 based thereon alleges, that Plaintiffs and Plaintiff Class are prejudiced by Defendant's unfair trade
27 practices.

28 86. As a direct and proximate result of Defendant's unfair business practices,

1 Plaintiffs, and Plaintiff Class are entitled to equitable relief, including full restitution of all wages
2 which have been unlawfully withheld from Plaintiffs and Plaintiff Class as a result of the business
3 acts and practices described herein, and enjoining Defendant to cease and desist from engaging
4 in the practices described herein.

5 87. The unlawful conduct alleged herein is continuing, and there is no indication that
6 Defendant will cease such activity in the future. Plaintiffs allege that if Defendant it will continue
7 to engage in the unlawful conduct previously alleged in this complaint and will continue to fail
8 to pay and to avoid paying appropriate wages, taxes, insurance, and unemployment withholdings.

9 88. Wherefore, Plaintiffs and Plaintiff Class request relief as described herein and
10 below and as deemed just.

11 **SEVENTH CAUSE OF ACTION**

12 **Failure to Provide Accurate Itemized Wage Statements**

13 **(Plaintiffs and Plaintiff Class against all Defendants)**

14 89. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
15 forth herein.

16 90. Labor Code section 1174, subdivision (d) requires an employer to keep at a central
17 location in California or at the plant or establishment at which the employees are employed,
18 payroll records showing the hours worked daily, and the wages paid to, each employee. Plaintiffs
19 are informed and believes that Defendants willfully failed to make or keep accurate records for
20 Plaintiffs and Plaintiff Class.

21 91. Labor Code section 226, subdivision (a) states that, "every employer shall,
22 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
23 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
24 when wages are paid by personal check or cash, an accurate itemized statement in writing
25 showing: (1) gross wages earned; (2) total hours worked by the employee; (3) number of piece-
26 rate units earned and any applicable piece rate if employee is paid on a piece rate; (4) all
27 deductions; (5) net wages; (6) the inclusive dates of the period for which the employee is paid;
28 (7) the name of the employee and only the last four digits of his or her social security number or

1 an employee identification number other than a social security number; (8) the name and address
2 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
3 period and corresponding number of hours worked at each hourly rate by the employee.”

4 92. Industrial Welfare Commission (“IWC”) Wage Order Number 4-2002, paragraph
5 6(a) requires that every employer shall keep accurate information with respect to each employee,
6 including time records showing when each employee begins and ends each work period, the total
7 daily hours worked by each employee and the total hours worked in each payroll period, and
8 applicable rates of pay. Plaintiffs are informed and believe that Defendant willfully and
9 intentionally failed to make and/or keep records which accurately reflect the hours worked by
10 Plaintiffs and Plaintiff Class. Specifically, Plaintiffs believes that Defendant’s records do not
11 accurately reflect the correct amount of gross wages earned, net wages earned, or the applicable
12 hourly rates in effect during the pay period, and the corresponding number of hours worked at
13 each hourly rate.

14 93. Plaintiffs are informed and believe that Defendant’s failure to keep accurate
15 payroll records, as described above, violated Labor Code, sections 226 and 1174, subdivision (d)
16 and the applicable wage order. Plaintiffs and the Plaintiff Class are entitled to penalties of one
17 hundred dollars (\$100.00) for the initial violation and two hundred dollars (\$200.00) for each
18 subsequent violation for every pay period during which these records and information was not
19 kept by Defendant.

20 94. An employee suffering injury as a result of a knowing and intentional failure by
21 an employer to comply with Labor Code sections 226 and 1174, subdivision (a) is entitled to
22 recover the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in
23 which a violation occurs and one hundred dollars (\$100.00) per employee for each violation in a
24 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000.00),
25 and is entitled to an award of costs and reasonable attorney’s fees.

26 95. Plaintiffs are informed and believes that Defendant’s failure to keep and maintain
27 accurate records and information, as described above, were willful, and Plaintiffs and Plaintiff
28 Class are entitled to a statutory penalty of five hundred dollars (\$500.00) for Plaintiffs and each

1 member of Plaintiff Class pursuant to Labor Code section 1174.5.

2 **EIGHTH CAUSE OF ACTION**

3 **Violation of the California Labor Code Private Attorneys General Act**

4 **(Plaintiffs and Plaintiff Class against all Defendants)**

5 96. Plaintiffs incorporate all previous paragraphs of this complaint as though fully set
6 forth herein.

7 97. Labor Code sections 2698-2699.5 provide that a civil penalty, assessed and
8 collected by the Labor and Workforce Development Agency or any of its departments, divisions,
9 commissions, boards, agencies or employees ("LWDA") for certain violations of the Labor Code,
10 may be recovered through a civil action by an aggrieved employee on behalf of herself and
11 collectively on behalf of all other current or former employees.

12 98. California Labor Code section 2699, subdivision (a), also known as the Private
13 Attorneys' General Act of 2004 (or PAGA), states: "Notwithstanding any other provision of law,
14 any provision of this code that provides for a civil penalty to be assessed and collected by the
15 Labor and Workforce Development Agency or any of its departments, divisions, commissions,
16 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered
17 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
18 current or former employees pursuant to the procedures specified in section 2699.3."

19 99. Plaintiffs and Class Members are "aggrieved employees" as defined by Labor
20 Code section 2698 et seq. in that they are all current or former employees of Defendant, and one
21 or more of the alleged violations was committed against them.

22 100. Prior to filing this complaint on March 30, 2022, Plaintiffs Josue Diaz Pineda,
23 Maribel Lozano Martinez, and Vilma Diaz Pineda gave written notice via the LWDA's electronic
24 filing platform and to Defendant via certified mail of the specific provisions alleged to have been
25 violated, including the facts and theories to support the alleged violations as required by Labor
26 Code section 2699.3, subdivision (a)(1). (See "Exhibit A"), which are hereby incorporated by
27 reference.
28

1 101. The LWDA has not provided Plaintiffs with any notice that it intends to investigate
2 the alleged violations. Plaintiffs do not anticipate an investigation into their claims by the LWDA.

3 102. Pursuant to Labor Code section 2699.3, notwithstanding any other provision of
4 law, Plaintiffs may, as a matter of right, amend the existing complaint to add a cause of action
5 under Labor Code section 2698.

6 103. Plaintiffs, individually and on behalf of all aggrieved Class Members, assert all of
7 the claims in this complaint against Defendant under the capacity of PAGA, and seeks all statutory
8 penalties available under the Labor Code.

9 104. Pursuant to Labor Code section 2698 et seq., Plaintiffs, individually and on behalf
10 of all aggrieved Class Members, request and are entitled to recover from Defendant: unpaid
11 wages, overtime compensation, rest and meal period compensation and penalties, reimbursement
12 of business expenditures, waiting period wages and penalties according to proof, penalties for
13 failure to keep accurate payroll records, interest, attorneys' fees and costs pursuant to Labor Code
14 sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802 as well
15 as all statutory penalties, and attorneys' fees against Defendant. The aforementioned penalties
16 include, but are not limited to, the following:

- 17 a. Penalties under Labor Code section 2698 in the amount of \$100.00 for each
18 aggrieved employee per pay period for each initial violation, and \$200.00 for
19 each aggrieved employee per pay period for each subsequent violation;
- 20 b. Penalties under Code of Regulations, Title 8, Section 11070 in the amount of
21 \$50.00 for each aggrieved employee per pay period for the initial violation,
22 and \$200.00 for each aggrieved employee per pay period for each subsequent
23 violation;
- 24 c. Penalties under Labor Code section 210 in addition to and entirely independent
25 and apart from any other penalty provided in the Labor Code in the amount of
26 \$100.00 for each aggrieved employee per pay period for each initial violation,
27 and \$200.00 for each aggrieved employee per pay period for each subsequent
28 violation, plus 25% of the wage wrongly withheld; and

1 d. Any and all additional penalties and sums as provided by the Labor Code
2 and/or other statutes

3 105. In addition thereto, pursuant to Labor Code section 2699, subdivision (i), Plaintiffs
4 seek and are entitled to seventy-five percent (75%) of all penalties obtained under Labor Code
5 section 2698 to be allocated to the Labor and Workforce Development Agency for enforcement
6 of labor laws, including the administration of this part, and for education of employers and
7 employees about their rights and responsibilities under this code, to be continuously appropriated
8 to supplement and not supplant the funding to the agency for those purposes; and twenty-five
9 percent (25%) to the aggrieved employees.

10 106. Further, Plaintiffs are entitled to seek and recover reasonable attorneys' fees and
11 costs pursuant to Labor Code sections 201, 202, 203, 226.3, 226.7, 510, 511, 512, 1174, 1174.5,
12 1182.12, 1194, 1197, and 2802 and any other applicable statute.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs and Plaintiff Class pray for judgment as follows:

- 15 1. That the Court determine that this action may be maintained as a class action;
- 16 2. That Plaintiffs be appointed the representatives of each proposed Class, as
17 appropriate;
- 18 3. That the attorneys of record for Plaintiffs whose name appears in this complaint
19 be appointed class counsel;
- 20 4. For compensatory damages in an amount according to proof with interest thereon;
- 21 5. For economic and/or special damages in an amount according to proof with
22 interest thereon;
- 23 6. That Defendant be found to have engaged in unfair competition in violation of
24 Business and Professions Code section 17200 *et seq.*;
- 25 7. That Defendant be ordered to make restitution to each Class due to its unfair
26 competition, pursuant to Business and Professions Code sections 17203 and 17204;
- 27 8. For penalties to the extent permitted pursuant to the Labor Code, Orders of the
28 Industrial Welfare Commission, including, but not limited to, waiting time penalties under Labor

1 Code section 203, and penalties under Labor Code section 210 and 226.7;

2 9. For attorneys' fees, interest, and costs of suit under Labor Code sections 218.5,
3 1194, and other applicable provisions of law outside the Labor Code; and

4 10. For such other and further relief as the Court deems just and proper.

5
6 Dated: July 19, 2022

MAHONEY LAW GROUP, APC

7
8
9 

Kevin Mahoney, Esq.

John A. Young, Esq.

10 Attorneys for Plaintiffs JOSE ALCALA-LUNA,
11 JOSUE DIAZ PINEDA, VILMA DIAZ PINEDA,
12 and MARIBEL LOZANO MARTINEZ and on
13 behalf of all employees similarly situated
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Dated: July 19, 2022

[Signature]

John A. Young, Esq.

Attorneys for Plaintiffs JOSE ALCALA-LUNA,
JOSUE DIAZ PINEDA, VILMA DIAZ PINEDA,
and MARIBEL LOZANO MARTINEZ and on
behalf of all employees similarly situated

EXHIBIT A

March 30, 2022

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA CERTIFIED MAIL #7019 0700 0002 1063 7003

Return Receipt Requested

Attn: Joel Ortega, President
Me Gusta Gourmet Foods, Inc.
13752 Van Nuys Blvd.
Pacoima, CA 91331

Re: *Josue Diaz Pineda v. Me Gusta Gourmet Foods, Inc.*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency, Me Gusta Gourmet Foods, Inc.
From: Josue Diaz Pineda, on behalf of himself and similarly aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Law Offices of Jake D. Finkel, APC, represents the interests of Mr. Josue Diaz Pineda (referred to hereinafter as "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of himself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Me Gusta Gourmet Foods, Inc. (hereinafter referred to as "MG" or "Employer") is a food service corporation headquartered in Pacoima, California. Employee worked for Employer as a non-exempt, hourly employee from 2017, through the end of his employment on or about October 13, 2021. Employee alleges Employer violated various sections of the Labor Code, including §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802 by failing to provide Employee and all other aggrieved employees all wages for all hours worked including, but not limited to, regular hour, overtime hours, meal/rest period premium pay, failed to keep accurate wage statements, failed to reimburse for necessary expenditures and failed to provide waiting time penalties to Employee and other aggrieved employees.

Employer failed to pay Employee and other aggrieved employees for all hours worked at the legally mandated wage rates. Employer failed to pay Employee and his coworkers the legally mandated regular and overtime rate for all work performed during their shifts in violation of California law. Employer's conduct, which is in violation of Labor Code sections 510 and 1194, is actionable under PAGA.

Further, Employer failed to provide Employee and other aggrieved employees with lawful, timely, and uninterrupted meal and rest periods. Due to Employer's policy and practices, Employee and his coworkers did not receive lawful and timely uninterrupted meal breaks and forego rest periods and was not compensated with his owed premium compensation. Employee and his coworkers would either be required to forgo, shorten, interrupt, or take a late meal or rest period and instead attend to their job duties. Employer also failed to provide Employee and his coworkers with a second meal period when working a shift longer than ten hours in length. Even though Employee and his coworkers were prevented from taking lawful timely uninterrupted meal and rest periods, Employer failed to provide them with premium pay for every untimely, missed, shortened, or interrupted meal period and rest period. Employer's conduct, which is in violation of Labor Code sections 226.7 and 512, is also actionable under PAGA.

Employer further failed to keep accurate payroll records and failed to provide Employee and other aggrieved employees wage statements either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash-an accurate itemized wage statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee, (4) all deductions, (5) net wages, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee, per pay period. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

Further, Employer required Employee and similarly aggrieved employees to use their personal cell phones for use in carrying out their job duties. Employer required Employee and his coworkers to use their personal cell phones to communicate with his superiors regarding work assignments. Employer failed to reimburse Employee and similarly aggrieved employees for the use of their personal cell phones used in carrying out their job duties in violation of Labor Code section 2802 and therefore is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees and is therefore actionable under PAGA.

Employee will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in her complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Very truly yours,



Joshua Park, Esq.
Law Offices of Jake D. Finkel

March 30, 2022

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA CERTIFIED MAIL #7019 0700 0002 1063 6990

Return Receipt Requested

Attn: Joel Ortega, President
Me Gusta Gourmet Foods, Inc.
13752 Van Nuys Blvd.
Pacoima, CA 91331

Re: *Vilma Diaz Pineda v. Me Gusta Gourmet Foods, Inc.*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency, Me Gusta Gourmet Foods, Inc.
From: Vilma Diaz Pineda, on behalf of herself and similarly aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Law Offices of Jake D. Finkel, APC, represents the interests of Ms. Vilma Diaz Pineda (referred to hereinafter as "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of herself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Me Gusta Gourmet Foods, Inc. (hereinafter referred to as "SD" or "Employer") is a food service corporation headquartered in Pacoima, California. Employee worked for Employer as a non-exempt, hourly employee from, on or about, October 27, 2019, through the end of her employment on or about April 2021. Employee alleges Employer violated various sections of the Labor Code, including §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802 by failing to provide Employee and all other aggrieved employees all wages for all hours worked including, but not limited to, regular hour, overtime hours, meal/rest period premium pay, failed to keep accurate wage statements, failed to reimburse for necessary expenditures and failed to provide waiting time penalties to Employee and other aggrieved employees.

Employer failed to pay Employee and other aggrieved employees for all hours worked at the legally mandated wage rates. Employer failed to pay Employee and her coworkers the legally mandated regular and overtime rate for all work performed during their shifts in violation of California law. Employer's conduct, which is in violation of Labor Code sections 510 and 1194, is actionable under PAGA.

Further, Employer failed to provide Employee and other aggrieved employees with lawful, timely, and uninterrupted meal and rest periods. Due to Employer's policy and practices, Employee and her coworkers did not receive lawful and timely uninterrupted meal breaks and forego rest periods and was not compensated with her owed premium compensation. Employee and her coworkers would either be required to forgo, shorten, interrupt, or take a late meal or rest period and instead attend to their job duties. Employer also failed to provide Employee and her coworkers with a second meal period when working a shift longer than ten hours in length. Even though Employee and her coworkers were prevented from taking lawful timely uninterrupted meal and rest periods, Employer failed to provide them with premium pay for every untimely, missed, shortened, or interrupted meal period and rest period. Employer's conduct, which is in violation of Labor Code sections 226.7 and 512, is also actionable under PAGA.

Employer further failed to keep accurate payroll records and failed to provide Employee and other aggrieved employees wage statements either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash-an accurate itemized wage statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee, (4) all deductions, (5) net wages, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee, per pay period. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

Further, Employer required Employee and similarly aggrieved employees to use their personal cell phones for use in carrying out their job duties. Employer required Employee and her coworkers to use their personal cell phones to communicate with her superiors regarding work assignments. Employer failed to reimburse Employee and similarly aggrieved employees for the use of their personal cell phones used in carrying out their job duties in violation of Labor Code section 2802 and therefore is actionable under PAGA.

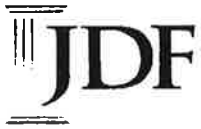
As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees and is therefore actionable under PAGA.

Employee will bring her lawsuit on behalf of herself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in her complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Very truly yours,



Joshua Park, Esq.
Law Offices of Jake D. Finkel



March 30, 2022

Via Certified Electronic Mail

LABOR AND WORKFORCE DEVELOPMENT AGENCY
PAGAfilings@dir.ca.gov

VIA CERTIFIED MAIL #7019 0700 0002 1063 7010

Return Receipt Requested

Attn: Joel Ortega, President
Me Gusta Gourmet Foods, Inc.
13752 Van Nuys Blvd.
Pacoima, CA 91331

Re: *Maribel Lozano Martinez v. Me Gusta Gourmet Foods, Inc.*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency, Me Gusta Gourmet Foods, Inc.
From: Maribel Lozano Martinez, on behalf of herself and similarly aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Law Offices of Jake D. Finkel, APC, represents the interests of Ms. Maribel Lozano Martinez (referred to hereinafter as "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of herself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

Me Gusta Gourmet Foods, Inc. (hereinafter referred to as "MG" or "Employer") is a food service corporation headquartered in Pacoima, California. Employee worked for Employer as a non-exempt, hourly employee from 2012, through the end of her employment on or about October 12, 2021. Employee alleges Employer violated various sections of the Labor Code, including §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1198, and 2802 by failing to provide Employee and all other aggrieved employees all wages for all hours worked including, but not limited to, regular hour, overtime hours, meal/rest period premium pay, failed to keep accurate wage statements, failed to reimburse for necessary expenditures and failed to provide waiting time penalties to Employee and other aggrieved employees.

Employer failed to pay Employee and other aggrieved employees for all hours worked at the legally mandated wage rates. Employer failed to pay Employee and her coworkers the legally mandated regular and overtime rate for all work performed during their shifts in violation of California law. Employer's conduct, which is in violation of Labor Code sections 510 and 1194, is actionable under PAGA.

Further, Employer failed to provide Employee and other aggrieved employees with lawful, timely, and uninterrupted meal and rest periods. Due to Employer's policy and practices, Employee and her coworkers did not receive lawful and timely uninterrupted meal breaks and forego rest periods and was not compensated with her owed premium compensation. Employee and her coworkers would either be required to forgo, shorten, interrupt, or take a late meal or rest period and instead attend to their job duties. Employer also failed to provide Employee and her coworkers with a second meal period when working a shift longer than ten hours in length. Even though Employee and her coworkers were prevented from taking lawful timely uninterrupted meal and rest periods, Employer failed to provide them with premium pay for every untimely, missed, shortened, or interrupted meal period and rest period. Employer's conduct, which is in violation of Labor Code sections 226.7 and 512, is also actionable under PAGA.

Employer further failed to keep accurate payroll records and failed to provide Employee and other aggrieved employees wage statements either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash-an accurate itemized wage statement in writing showing: (1) gross wages earned, (2) total hours worked by the employee, (4) all deductions, (5) net wages, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee, per pay period. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

Further, Employer required Employee and similarly aggrieved employees to use their personal cell phones for use in carrying out their job duties. Employer required Employee and her coworkers to use their personal cell phones to communicate with her superiors regarding work assignments. Employer failed to reimburse Employee and similarly aggrieved employees for the use of their personal cell phones used in carrying out their job duties in violation of Labor Code section 2802 and therefore is actionable under PAGA.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees and is therefore actionable under PAGA.

Employee will bring her lawsuit on behalf of herself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in her complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Very truly yours,



Joshua Park, Esq.
Law Offices of Jake D. Finkel

PROOF OF SERVICE

Code of Civ. Proc. § 1013a, subd. (3)

STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 249 East Ocean Boulevard, Suite 814, Long Beach, California, 90802.

On **July 19, 2022**, I served true copies of the following document(s): **JOINT STIPULATION TO ALLOW THE FILING OF PLAINTIFF'S PROPOSED FIRST AMENDED COMPLAINT; [PROPOSED] ORDER**. I served the document(s) on the person(s) below as follows:

Robert K. Hudock, Esq. Eliza Langdon Oliver, Esq. HUDOCK EMPLOYMENT LAW GROUP, APC 515 S. Flower Street, Suite 1220 Los Angeles, CA 90071	Attorneys for Defendant: ME GUSTA GOURMET FOODS, INC. Telephone: (213) 418-9444 Facsimile: (213) 418-9445 Emails: rhudock@hudockemploymentlaw.com elangdon@hudockemploymentlaw.com
Andres Bustamante, Esq. ANDRES BUSTAMANTE LAW OFFICES 1270 E. Garvey Street Suite 240 Covina, CA 91724	Attorneys for Defendant: ME GUSTA GOURMET FOODS, INC. Telephone: (626) 331-7200 Facsimile: (626) 331-7019 Emails: blaw.azb@gmail.com
Jake D. Finkel, Esq. LAW OFFICES OF JAKE D. FINKEL, APC 3470 Wilshire Blvd. Suite 830 Los Angeles, CA 90010	Attorneys for Plaintiffs JOSE ALCALA-LUNA, JOSUE DIAZ PINEDA, VILMA DIAZ PINEDA, and MARIBEL LOZANO MARTINEZ, as individuals, and on behalf of all similarly situated employees, Telephone: (213) 787-7411 Facsimile: (323) 916-0521 Email: jake@lawfinkel.com
Mehrdad Bokhour, Esq. BOKHOUR LAW GROUP, P.C. 1901 Avenue of the Stars, Suite 450 Los Angeles, CA 90067	Attorneys for Plaintiffs JOSE ALCALA-LUNA, JOSUE DIAZ PINEDA, VILMA DIAZ PINEDA, and MARIBEL LOZANO MARTINEZ, as individuals, and on behalf of all similarly situated employees, Telephone: (310) 975-1493 Facsimile: (310) 675-0861 Email: mehrdad@bokhourlaw.com

The document(s) were served by the following means:

☒ **By e-mail:** Based upon court order or an agreement of the parties to accept service by e-mail, I caused the document(s) to be sent to the persons at the electronic service addresses listed above from the email address npierson@mahoney-law.net. Within a reasonable time after the transmission, no error, electronic message or any other indication that the transmission was unsuccessful was received.

