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SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

JOSE LUIS JASSO, and SANTOS LARA,
individually and on behalf of all individuals
similarly situated,

Plaintiffs,

vs.

SEÑOR POLLO, INC.; and DOES 1
through 25, inclusive,

Defendants.

CASE NO. 21STCV11473

**SECOND AMENDED CLASS ACTION
COMPLAINT**

- 1. MISSED MEAL AND REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§ 200, 226.7, 512, AND 12 CALIFORNIA CODE OF REGULATIONS §11050;**
- 2. FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE § 1194, ET SEQ.;**
- 3. FAILURE TO PROVIDE PROPER WAGE STATEMENT IN VIOLATION OF CAL. LABOR CODE § 226;**
- 4. FAILURE TO TIMELY PAY UNPAID WAGES DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF CAL. LABOR CODE § 201-203;**
- 5. VIOLATION OF LABOR CODE § 2698, ET SEQ. (“PAGA”);**
- 6. VIOLATIONS OF CAL. B&P CODE §§ 17200, ET SEQ.; AND**
- 7. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS IN**

**VIOLATIONS OF CAL. LABOR CODE §
1198.5.
DEMAND FOR JURY TRIAL**

Plaintiffs JOSE LUIS JASSO (“JASSO”) and SANTOS LARA (“LARA”) (collectively, “Plaintiffs”) and on behalf of all individuals similarly situated, hereby bring this Second Amended Class Action Complaint for Damages against Defendant SENOR POLLO, INC. (“POLLO”) (“Defendant”) and DOES 1 through 25, inclusive, (collectively, “Defendants”) and state and allege as follows:

THE PARTIES

1. Plaintiffs are adults residing in the City of Los Angeles, in the County of Los Angeles, California.

2. At all times relevant to this Second Amended Complaint, Defendant is a corporation headquartered in Downey in the County of Los Angeles, California.

3. Plaintiffs are unaware of the true names or capacities of Defendants sued herein under the fictitious names DOES 1 – 25, but pray for leave to amend and serve such fictitiously named Defendants pursuant to California Code of Civil Procedure Section 474 once their names and capacities become known.

4. Plaintiffs are informed and believe, and thereon allege, that DOES 1-25 are the partners, agents, owners, shareholders, managers, principals or employees of POLLO and/or and were acting on behalf of POLLO.

5. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts and omissions alleged herein was performed by or is attributable to Defendants and/or DOES 1-25 (collectively “Defendants”), each acting as the agent for the other, with legal authority to act on the other’s behalf. The acts of any and all Defendants were in accordance with, and represent the policy of, all Defendants.

6. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages herein alleged.

7. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants is in some manner intentionally, negligently or otherwise responsible for the acts, omissions, occurrences and transactions alleged herein.

8. Plaintiffs are informed and believe, and based thereon allege, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-Defendant and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendant, each of the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendant.

9. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership and common enterprise, and acted within the course and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

10. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendant in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendant, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, the Defendant, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

11. The members of the Plaintiffs' Class, including the representative Plaintiffs named herein, have been employed during the Class Period in California. The practices and policies which are complained of by way of this Complaint are enforced throughout the State of California.

JURISDICTION

12. This action is properly filed in Los Angeles County because the acts and omissions that give rise to Plaintiffs' claims took place in Los Angeles County, California, as Plaintiffs were employed by the Defendants in Los Angeles County, California and the Defendants transact business in this County.

13. This Court has jurisdiction over Defendants because Defendants are citizens of the

1 State of California.

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3 **FACTUAL ALLEGATIONS**

4 14. In or around January 2009, JASSO was hired as a line cook for Defendants. JASSO
5 held this position throughout the entirety of his employment with Defendants.

6 15. On or around November 15, 2010, LARA was hired as a food preparer, and was
7 promoted to cook in or around 2013.

8 16. Throughout most of their employment, Defendants used an electronic clock in system.
9 However, JASSO and Class Members noticed their wage statements did not conform to their own
10 kept handwritten time sheets.

11 17. Despite regularly working in excess of 50-60 hours a week, Plaintiffs and Class
12 members were never paid overtime.

13 18. In or around 2015, LARA's Defendants switched her compensation system to a
14 "salary" amounting to \$1,150 every two weeks, regardless of the amount of hours LARA worked.
15 LARA continued to work in excess of 50 or 60 hours per week, and continued to clock in on
16 Defendants' electronic timekeeping system. However, LARA was not paid for these extra hours, and
17 her wage statements received from Defendants incorrectly reported that she worked for only 40 hours
18 per week. On information and belief, some other Class Members were also paid on this sham "salary"
19 system.

20 19. In or around 2018, Defendants installed a fingerprint scanner for employees to clock in
21 and out electronically. Despite the scanner recording employee start and stop time, Defendants still
22 failed to pay overtime. Instead, Defendants would record these hours as being worked on subsequent,
23 less busy weeks, so as to avoid paying JASSO and Class Members for the overtime rate for these
24 hours.

25 20. Additionally, Defendants would issue "bonuses" to JASSO and Class Members, which
26 were calculated by multiplying the regular hourly rate times the amount of overtime hours actually
27 worked by JASSO and Class Members. Defendants intended these "bonuses" to circumvent their
28 obligation to pay the full overtime rate for all overtime hours worked.

1 21. Despite working approximately six days a week, Plaintiffs and Class members rarely
2 received breaks until after the fifth hour of work, because they were required to keep working until a
3 relief shift came. For Plaintiffs and Class members, this meant waiting approximately 6.5 to 7 straight
4 hours each day, before being allowed to take any meal or rest breaks.

5 22. As a result of Defendants' failure to properly pay for all overtime compensation, and
6 meal and rest break premiums, Plaintiffs and Class members were not provided with accurate
7 itemized wage statements.

8 23. Defendants also did not pay a premium of one hour's pay for any missed meal or rest
9 periods.

10 24. Defendants have willfully prevented and discouraged, and continue to prevent and
11 discourage Plaintiffs and Class members from taking meal and rest breaks and failed to compensate
12 Plaintiffs and Class members for missed breaks in violation of Labor Code §§ 200, 226.7, 512 and
13 12 CCR § 11050.

14 25. On or around May 18, 2018, LARA resigned from employment with Defendants. To
15 date, LARA's wages for hours worked in excess of forty per week remain unpaid.

16 26. On or around October 27, 2019, JASSO resigned from employment with Defendants.
17 Defendants did not issue final wages until November 1, 2019. Even then, these wages did not
18 include the overtime pay wrongfully withheld by Defendants.

19 27. On February 16, 2021, JASSO mailed Defendants a letter demanding his employment
20 records under Labor Code §§ 226, 432, and 1198.5. As of the date of the filing of this complaint,
21 Defendants has never provided the employment records required under these sections, much less
22 provided any response whatsoever.

23 28. Defendants have engaged in, and continue to engage in, unfair business practices in
24 California by practicing, employing and utilizing the employment practices and policies outlined
25 above.

26 29. Defendants' utilization of such unfair business practices constitute unfair competition
27 and provides an unfair advantage over Defendants' competitors. Defendants utilization of such
28 unfair business practices deprive Plaintiffs and Class members of the general minimum working

standards and entitlements due them under California law and the Industrial Welfare Commission wage orders as described herein.

30. As a direct result of the wage and hour violations herein alleged, Plaintiffs have suffered, and continues to suffer, substantial losses related to the use and enjoyment of wages, lost interest on such wages, and expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under state law, all to their respective damage in amounts according to proof at the time of trial.

CLASS ACTION ALLEGATIONS

31. Plaintiffs brings this action as a class action on behalf of the following defined Class:

The Class:

All individuals who have been, or currently are, employed by

Defendants as “non-exempt employees” during the Class Period.

Excluded from the Class are employees who work only administrative and managerial functions as exempt employees.

32. “Class Period” is defined as the time from March 24, 2017 through the date that judgment is entered, based upon information and belief that the violations, as described more fully hereinafter, began long before March 24, 2017 and are continuing. Plaintiffs and members of Class herein reserve the right to amend this Complaint to reflect a different Class Period as discovery in this matter proceeds.

33. Numerosity: Plaintiffs are informed and believes, and on that basis alleges, that during the Class Period, hundreds of Class members have been employed by Defendants as non-exempt employees in the State of California. Because so many persons have been employed by Defendants in this capacity, the members of the Plaintiffs’ Class are so numerous that joinder of all members is impossible and/or impracticable.

34. Commonality: Common questions of law, in fact, exist as to all members of the Plaintiffs’ Class and predominate over any questions affecting solely individual members of the Plaintiffs’ Class. Among the questions of law and fact, that are relevant to the adjudication of Class members claims are as follows:

1 a. Whether Defendants unlawfully failed to properly calculate and pay overtime
2 compensation due and owing to the Plaintiffs and members of the Class in violation of Labor
3 Code § 1194;

4 b. Whether Defendants' policy and/or practice of failing to accurately pay overtime to
5 Plaintiffs and members of the Class violates applicable provisions of California Law, including
6 Labor Code sections, applicable Industrial Welfare Commission Orders, and applicable State
7 Regulations;

8 c. Whether Defendants unlawfully and/or willfully deprived Plaintiffs and Class
9 members of meal and rest breaks and pay for missed breaks pursuant to Labor Code §§ 200,
10 226.7, 512, and 12 CCR § 11040;

11 d. Whether Defendants had/have a policy and/or practice that results in the
12 presentation of inaccurate wage statements to Plaintiffs and the Class;

13 e. Whether Defendants unlawfully and/or willfully failed to furnish Plaintiffs and
14 Class members with accurate, itemized wage statements upon payment of wages in violation of
15 Labor Code § 226;

16 f. Whether Defendants had/have a policy and/or practice of not paying Class members
17 all final wages owed upon termination of employment;

18 g. Whether Defendants unlawfully and/or willfully failed to promptly pay
19 compensation owing to Plaintiffs and Class members upon termination of their employment in
20 violation of Labor Code §§ 201-203;

21 h. Whether Plaintiffs and Class members sustained damages, and if so, the proper
22 measure of such damages, as well as interest, penalties, costs, attorneys' fees, and equitable relief;
23 and,

24 i. Whether Defendants violated the Unfair Competition Law of California, §17200, *et*
25 *seq.*, by violating the above-cited provisions, and treating Plaintiffs and Class members unfairly
26 by failing to pay all wages due and for all hours worked, depriving them of meal and rest breaks
27 and failing to provide and pay for missed breaks, failing to pay wages upon termination, failing to
28

1 furnish an accurate, itemized wage statement upon payment of wages and failing to pay all
2 compensation due upon discharge.

3 35. Typicality: Plaintiffs' claims are typical of the members of the Plaintiffs' Class.
4 Plaintiffs, like other members of the Class working for Defendant in California, were subjected to
5 Defendant's policies and/or practices set forth above. Plaintiffs' job duties were, and are, typical of
6 those of other Class members.

7 36. Adequacy of Representation: Plaintiffs will fairly and adequately protect the interests
8 of the members of the Class and have retained counsel competent and experienced in both class action
9 and employment litigation.

10 37. Questions of law or fact common to Class members predominate over any questions
11 solely affecting individual Class members and class action is superior to other available methods for
12 the fair and efficient adjudication of this controversy.

13 38. Class action treatment will allow a large number of similarly situated Class members
14 to simultaneously and efficiently prosecute his common claims in a single forum without the needless
15 duplication of effort and expense that numerous individual actions would entail.

16 39. In addition, a class action will serve the important public interest of permitting Class
17 members harmed by Defendant's unlawful policies and/or practices to effectively pursue recovery of
18 the sums owed to them.

19 40. Plaintiffs knows of no difficulty which will be encountered in the management of this
20 litigation which would preclude its maintenance as a class action.

21 **FIRST CAUSE OF ACTION**

22 **MISSED MEAL AND REST BREAKS IN VIOLATION OF CAL. LABOR CODE §§ 200,**
23 **226.7, 512, AND 12 CALIFORNIA CODE OF REGULATIONS §11050**

24 41. Plaintiffs hereby reallege, and incorporate by reference as though set fully forth herein,
25 the allegations contained in all preceding paragraphs as though stated herein.

26 42. Throughout the employment of Plaintiffs, Defendants failed to provide meal and rest
27 breaks as required by law.
28

43. In addition, Defendants failed to pay Plaintiffs the full statutory penalty for all missed meal and rest periods.

44. Plaintiffs are entitled to recover additional compensation for all rest periods that were missed, but not paid for during his employment, plus penalties pursuant to Labor Code §§ 226.7, and 558.

45. Plaintiffs are entitled to recover additional compensation for all meal periods that were missed, but not paid for during his employment, plus penalties pursuant to Labor Code §§ 226.7, and 558.

46. As a proximate result of the aforementioned violations, Plaintiffs and Class Members have been damaged in an amount according to proof at time of trial and have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such monies, and lost interest on such monies in seeking to compel Defendants to fully perform its obligation under state law. Plaintiffs and Class are thus entitled to recover nominal, actual, and compensatory damages in an amount according to proof at time of trial.

47. WHEREFORE, Plaintiffs requests relief as hereinafter provided

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR

CODE § 1194, *ET SEQ.*;

48. Plaintiffs hereby reallege, and incorporates by reference as though set fully forth herein, the allegations contained in all preceding paragraphs as though stated herein.

49. Pursuant to the applicable Industrial Welfare Commission Order and Labor Code §§ 200, 226, 500, 510, 1194, and 1198, Defendants were required to compensate Plaintiffs and Class for all overtime work performed for the benefit of Defendants, which is calculated at time and a half (1.5) times after eight (8) hours on any work day.

50. Plaintiffs were and are non-exempt employees entitled to the protections of the Industrial Welfare Commission and Labor Code §§ 200, 226, 500, 510, 1194, and 1198. During the course of Plaintiffs' employment, and during the course of the employment of the members of the

1 Class, Defendants failed to compensate Plaintiffs and the Class members for all overtime hours
2 worked as required under the aforementioned labor codes and regulations.

3 51. In violation of state law, Defendants have knowingly and willfully refused to perform
4 their obligations to compensate Plaintiffs and the Class for all overtime wages earned and all hours
5 worked. As a direct result, Plaintiffs have suffered, and continue to suffer, substantial losses related
6 to the use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees
7 in seeking to compel Defendants to fully perform its obligations under state law, all to his damage in
8 amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of
9 this Court.

10 52. Defendants have committed the acts alleged herein knowingly and willfully, with the
11 wrongful and deliberate intention of injuring Plaintiffs and Class Members, from improper motives
12 amounting to malice, and in conscious disregard of Plaintiffs' rights and the rights of the subclass.
13 Plaintiffs are thus entitled to recover nominal, actual and compensatory damages in amounts
14 according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

15 53. Defendants conduct described herein violates the Industrial Welfare Commission
16 Orders and Labor Code §§ 200, 226, 500, 510, and 1198. Therefore, pursuant to Labor Code §§ 200,
17 203, 226, 226.7, 558 and 1194, Plaintiffs are entitled to recover the unpaid balance of overtime
18 compensation Defendants owe Plaintiffs plus interest, penalties, attorneys' fees, expenses, and costs
19 of suit.

20 54. WHEREFORE, Plaintiffs requests relief as hereinafter provided.

21 **THIRD CAUSE OF ACTION**

22 **FAILURE TO PROVIDE PROPER WAGE STATEMENT IN VIOLATION OF CAL.**

23 **LABOR CODE § 226**

24 56. Plaintiffs hereby reallege, and incorporates by reference as though set fully forth
25 herein, the allegations contained in all preceding paragraphs as though stated herein.

26 57. Labor Code §226(a) sets forth reporting requirements for employers when they pay
27 wages, as follows:

28 "Every employer shall . . . at the time of each payment of wages, furnish his or her employees .

1 . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the
2 employee . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee
3 is paid on a piece-rate basis. . ."

4 Section (e) provides:

5 "An employee suffering injury as a result of a knowing and intentional failure by an employer
6 to comply with subdivision (a) shall be entitled to recover the greater of all actual damages or fifty
7 dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per
8 employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four
9 thousand dollars (\$4000), and shall be entitled to an award of costs and reasonable attorneys' fees."

10 58. Defendants failed to accurately record the regular and overtime hours worked by
11 Plaintiffs and Class Members, and total wages due.

12 59. Plaintiffs were damaged by this failure to provide accurate wage statements because,
13 among other things, Plaintiffs were unable to determine the proper amount of wages actually owed
14 to them, and whether they had received full compensation therefore.

15 60. Plaintiffs requests recovery of Labor Code § 226(e) penalties according to proof, as
16 well as interest, attorneys' fees and costs pursuant to Labor Code §226(e), and all other damages,
17 attorneys' fees, costs, expenses and interest permitted by statute.

18 **FOURTH CAUSE OF ACTION**

19 **FAILURE TO PAY COMPENSATION UPON DISCHARGE OR QUIT**

20 **IN VIOLATION OF LABOR CODE SECTIONS 201-203**

21 61. Plaintiffs hereby reallege, and incorporate by reference as though set fully forth herein,
22 the allegations contained in all preceding paragraphs as though stated herein.

23 62. Labor Code § 201 provides, in relevant part, "[i]f an employer discharges an employee,
24 the wages earned and unpaid at the time of discharge are due and payable immediately."

25 63. Labor Code § 202 provides, in relevant part, "[i]f an employee not having a written
26 contract for a definite period quits his or her employment, his or her wages shall become due and
27 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of
28

1 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
2 quitting.”

3 64. Pursuant to Labor Code § 201, upon former employee Class members’ terminations
4 (which occurred on one or more occasions each calendar year, as set forth above), Defendants were
5 required to pay all earned wages.

6 65. At the time of Class members’ respective terminations, Class members had unpaid
7 wages, which wages were uncompensated overtime.

8 66. In violation of Labor Code § 201, Defendants failed to pay former employee Class
9 members the full amount of wages due and owing them, in amounts to be proven at the time of trial.

10 67. Defendant’s willful failure to pay former employee Class members all of the wages
11 due and owing them constitutes violations of Labor Code §§ 201 and 203, which provides that an
12 employee’s wages will continue as a penalty up to thirty (30) days from the time the wages were due.
13 Therefore, former employee Sub-Class members are each entitled to penalties pursuant to Labor Code
14 § 203 for each and every violation of Labor Code § 201.

15 68. WHEREFORE, Plaintiffs requests relief as hereinafter provided.

16 **FIFTH CAUSE OF ACTION**

17 **VIOLATION OF LABOR CODE §§ 2698, ET SEQ. (“PAGA”)**

18 69. Plaintiffs reallege and incorporate by reference all of the allegations in the preceding
19 paragraphs, as though set forth in full herein.

20 70. On March 22, 2022 Plaintiffs filed a notice with the Labor Workforce and Development
21 Agency (“LWDA”) at their website pursuant to the Private Attorney General Act, California Labor
22 Code §§ 2698, *et seq.* (“PAGA”) regarding Defendants. This notice was also sent to Defendants that
23 same day via certified mail.

24 71. PAGA permits Plaintiffs to recover civil penalties for the violation(s) of the Labor Code
25 sections enumerated in Labor Code section 2699.5.

26 72. PAGA provides as follows: “[n]otwithstanding any other provision of law, a Plaintiff
27 may as a matter of right amend an existing complaint to add a cause of action arising under this part at
28 any time within 60 days of the time periods specified in this part.”

73. Defendants' conduct, as alleged herein, violates numerous sections of the California Labor Code including, but not limited to, the following:

a. Defendants violated Industrial Welfare Commission Order No. 4 and Labor Code §§ 226.7 and 512, 516, 558 and 1198 by failing to provide all legally required meal and rest period premiums to Plaintiffs and other similarly aggrieved employees;

b. Defendants violated Labor Code §§ 510, 1194, 1194.2, 1197, 1198 by failing to pay all worked overtime hours to Plaintiffs and other similarly aggrieved employees;

c. Defendants violated Industrial Welfare Commission Order No. 4 and Labor Code §§ 200, 226, 226.7, 500, 510, 1197, 1194, and 1198 by failing to pay Plaintiff and similarly aggrieved employees for all hours worked;

d. Defendants violated Labor Code § 226 by failing to provide Plaintiffs and other similarly aggrieved employees with accurate and compliant itemized wage statements; and

e. Defendants violated Labor Code §§ 201-203 by failing to timely pay all final wages due.

74. California Labor Code section 1174 provides that "[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll 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..."

75. California Labor Code section 210 provides: "In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld."

76. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf

1 of an employer who violates, or causes to be violated, a section of this chapter or any provision
2 regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject
3 to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid
4 employee for each pay period for which the employee was underpaid in addition to an amount sufficient
5 to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each
6 underpaid employee for each pay period for which the employee was underpaid in addition to an
7 amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be
8 paid to the affected employee.” Labor Code section 558(c) provides “[t]he civil penalties provided for
9 in this section are in addition to any other civil or criminal penalty provided by law.”

10 77. Defendants, at all times relevant to this complaint, were employers or persons acting on
11 behalf of an employer(s) who violated Plaintiffs’ rights by violating various sections of the California
12 Labor Code as set forth above.

13 78. As set forth above, Defendants have violated numerous provisions of both the Labor
14 Code sections regulating hours and days of work as well as the applicable order of the IWC.
15 Accordingly, Plaintiffs seek the remedies set forth in Labor Code section 558 for themselves, the State
16 of California, and all other aggrieved employees.

17 79. Pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3,
18 2699.5, Plaintiffs, acting in the public interest as a private attorney general, seek assessment and
19 collection of unpaid wages and civil penalties for Plaintiffs, all other aggrieved employees, and the
20 State of California against Defendant, in addition to other remedies, for violations of California Labor
21 Code sections 200, 201, 202, 203, 204, 210, 221, 224, 226(a), 510, 1174, 1194, 1197, 1197.1, and 1198.

22 **SIXTH CAUSE OF ACTION**

23 **VIOLATIONS OF CAL. B&P CODE §§ 17200, *et seq.***

24 80. Plaintiffs incorporate all preceding paragraphs as though fully set for herein.

25 81. Section 17200 of the California Business and Professions Code prohibits any unlawful,
26 unfair or fraudulent business act or practice.

27 82. Plaintiffs have suffered and continues to suffer injury in fact and monetary damages as
28 a result of Defendant’s actions. The actions by Defendant as herein alleged amount to conduct which

1 is unlawful and a violation of law. As such, said conduct amounts to unfair business practices in
2 violation of Business and Professions Code § 17200, *et seq.*

3 83. Defendant's conduct as herein alleged has damaged Plaintiffs by denying them wages
4 due and payable, failing to pay meal and rest break premiums, and by failing to provide proper wage
5 statements. Defendant's actions are thus substantially injurious to Plaintiffs causing them injury in
6 fact and loss of money.

7 84. As a result of such conduct, Defendant has unlawfully and unfairly obtained monies
8 due to Plaintiffs and Class Members.

9 85. The amount of wages due to Plaintiffs and Class Members can be readily determined
10 from Defendant's records. Plaintiffs and Class Members are entitled to restitution of monies due and
11 obtained by Defendant during the period of last 4 years as a result of Defendants' unlawful and unfair
12 conduct.

13 86. Defendants' course of conduct, acts, and practices in violation of the California law as
14 mentioned in each paragraph above constitutes a separate and independent violation of §17200 etc.
15 of the Business and Professions Code.

16 87. The harm to Plaintiffs and Class Members of being wrongfully denied lawfully earned
17 and unpaid wages outweighs the utility, if any, of Defendants' policies and practices and, therefore,
18 Defendant's actions described herein constitute an unfair business practice or act within the meaning
19 of Business and Professions Code § 17200.

20 88. Defendant's conduct described herein threatens an incipient violation of California's
21 wage and hour laws, and/or violates the policy or spirit of such laws, or otherwise significantly
22 threatens or harms competition.

23 89. Defendants' course of conduct described herein further violates Business and
24 Professions Code 17200 in that it is fraudulent, improper, and unfair.

25 90. The unlawful, unfair, and fraudulent business practices and acts of Defendant as
26 described herein above have injured Plaintiff in that they were wrongfully denied the timely and full
27 payment of wages due to them.
28

1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS IN**
3 **VIOLATION OF CAL. LABOR CODE § 1198.5**

4 91. Plaintiffs hereby re-alleges and incorporate by reference all preceding paragraphs as
5 though set fully forth herein.

6 92. California Labor Code section 432 requires employers to give an employee, upon
7 request, a copy of any instrument that the employee or applicant has signed relating to the obtaining
8 or holding of employment.

9 93. California Labor Code section 1198.5 requires employers to allow current and former
10 employees' access to their personnel files and record that relate to the employee's performance or to
11 any grievance concerning the employee.

12 94. An employer who receives a written or oral request to inspect or copy records
13 pertaining to a current or former employee's wage information shall comply with the request as soon
14 as practicable, but no later than 21 calendar days from the date of the request pursuant to Labor Code
15 §226.

16 95. DEFENDANTS demonstrated a consistent policy of discouraging and ultimately
17 preventing JASSO from accessing his employment records and reviewing their personnel files.
18 JASSO sent a letter demanding their wage records via USPS certified mail on February 12, 2020, but
19 Defendants failed to respond to this request to date. Defendants thereby violated Labor Code §§ 226,
20 432 and 1198.5.

21 96. Failure to properly comply with a request for inspection of employment records is a
22 criminal infraction which subjects the employer to monetary penalties of \$750. Therefore, JASSO
23 seek an order to compel compliance and is entitled to costs and attorneys' fees.

24 97. WHEREFORE, Plaintiff requests relief as hereinafter provided.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs pray for judgment as follows:

- 27 1. For nominal damages;
28 2. For compensatory damages;

1 3. For equitable relief in the nature of declaratory relief, restitution of all monies due to
2 Plaintiffs and Class Members, and disgorgement of profits from the unlawful business practices of
3 Defendant, and accounting;

4 4. For penalties permitted by Labor Code §§ 200, 201, 202, 203, 204, 210, 225.5, 223,
5 226, 226.3, 226, 226.3, 226.7, 227.3, 248.5, 432, 500, 510, 512, 516, 558, 1171, 1173, 1173.1, 1194,
6 1194.2 and 1197, 1198, 1198.5 and all other applicable Labor Code sections;

7 5. For interest accrued to date;

8 6. For costs of suit and expenses incurred herein pursuant to Labor Code §§ 226 and 1194;

9 7. For reasonable attorneys' fees pursuant to Labor Code §§ 226, 248.5, and 1194; and

10 8. For all such other and further relief that the Court may deem just and proper.

11
12 DATED: July 8, 2022

LOYR, APC

13
14
15 By: _____


Young W. Ryu, Esq.
Henna H. Choi, Esq.
Sarah H. Cohen, Esq.
Attorneys for Plaintiffs

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17
18
19 **JURY DEMAND**

20 Plaintiffs demand a trial by jury on all issues so triable.

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22 DATED: July 8, 2022

LOYR, APC

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25 By: _____


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