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Attorney for Plaintiff MARIA CRUZ VASQUEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MARIA CRUZ VASQUEZ, an individual;

Plaintiff,

v.

MOHAJERI, INC., a California Corporation;
CHANGIZ MOHAJERI, an individual;
ANTOJITOS LATINOS MARKET, a
business entity form unknown; and DOES 1
through 20, inclusive;

Defendants.

Case Number: 30-2022-01261627-CU-OE-CXC

Judge William Claster

COMPLAINT FOR:

- 1. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004, CALIFORNIA LABOR CODE § 2698 *et seq.* (“PAGA”);**
- 2. FAILURE TO PAY MINIMUM WAGE (Cal. Lab. Code § 1197);**
- 3. FAILURE TO COMPENSATE FOR ALL HOURS WORKED (Cal. Lab. Code § 1198);**
- 4. FAILURE TO PAY OVERTIME COMPENSATION (Cal. Lab. Code § 1198);**
- 5. FAILURE TO PAY REST PERIOD COMPENSATION (Cal. Lab. Code § 226.7);**
- 6. FAILURE TO PAY MEAL PERIOD COMPENSATION (Cal. Lab. Code § 226.7);**
- 7. FAILURE TO FURNISH ACCURATE WAGE AND HOUR STATEMENTS (Cal. Lab. Code § 226);**
- 8. FAILURE TO PAY WAGES UPON DISCHARGE (Cal. Lab. Code § 201);**
- 9. STATUTORY PENALTIES (Cal. Lab. Code §§ 203 and 558);**

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**10. FAILURE TO INDEMNIFY AND
ILLEGAL DEDUCTIONS FROM
WAGES (Cal. Lab. Code § 2802);
11. UNFAIR COMPETITION (Business and
Professions Code 17200);**

**(UNLIMITED CIVIL)
(DEMAND EXCEEDS \$25,000)

DEMAND FOR JURY TRIAL**

COMES NOW, Plaintiff MARIA CRUZ VASQUEZ (“Plaintiff”) hereby complains against Defendants MOHAJERI, INC., CHANGIZ MOHAJERI, ANTOJITOS LATINOS MARKET and DOES 1 through 20, inclusive, (collectively “Defendants”) and each of them, and alleges as follows:

JURISDICTION

1. This Court has personal jurisdiction over Defendants because Defendants engaged in wrongful conduct in the State of California, which caused harm to Plaintiff in this state.
2. Venue is proper in this Court, because Defendants employ persons in this county, employed Plaintiff in this county, and thus a substantial portion of the occurrences related to this action occurred in this county. *Cal. Civ. Proc. Code* § 395.

PARTIES

3. Plaintiff MARIA CRUZ VASQUEZ is an individual and a resident of the County of Orange and citizen of the State of California.
4. Plaintiff is informed and believes, and based thereon alleges that Defendant MOHAJERI, INC. is a California Corporation, organized and existing to do business under the laws of the State of California, with its principal place of business located in Laguna Hills, California.
5. Plaintiff is informed and believes, and based thereon alleges that Defendant CHANGIZ MOHAJERI is an individual and a resident of the County of Orange and citizen of the State of California.
6. Plaintiff is informed and believes, and based thereon alleges that Defendant ANTOJITOS LATINOS MARKET is a business entity form unknown, organized and existing to do business under the laws of the State of California, with its principal place of business located in Laguna Hills,

1 California.

2 7. Plaintiff is informed and believes, and based thereon alleges that at all times herein mentioned
3 Defendants and DOES 1 through 20, are and were individuals, sole proprietorships, corporations,
4 business entities, persons, and partnerships, licensed to do business and/or actually doing business in
5 the State of California.

6 8. Plaintiff is unaware of the true names and capacities, whether informed and believes and
7 thereon alleges that at all times herein mentioned Defendants and DOES 1 through 20, are and were
8 individual, corporate, associate, or otherwise, of the Defendants sued as DOES 1 through 20, inclusive.
9 They are unknown to Plaintiff and therefore Plaintiff issues them by such fictitious names. Plaintiff
10 will amend this complaint to allege their true names and capacities when they become known to
11 Plaintiff. Plaintiff is informed and believes, and based thereon alleges, that DOES 1 through 20,
12 inclusive, are indebted to Plaintiff as hereinafter alleged, and that Plaintiff's rights against such
13 fictitiously named Defendants arise from such indebtedness.

14 9. Plaintiff is informed and believes, and based thereon alleges that each Defendant sued in this
15 action, including each Defendant sued by the fictitious names DOES 1 through 20, inclusive, is
16 responsible and liable in some manner for the occurrences, controversies and damages alleged below.

17 10. All references to "Defendants," "Defendants," "company," "company's," "employer" or any
18 similar language, whether singular or plural, shall mean "Defendants, and each of them" when used
19 throughout this complaint.

20 11. At all times herein mentioned, Defendants participated in the doing of the acts and omissions
21 herein alleged, were acting within the purpose, course and scope of said agency and/or employment
22 to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were
23 the agents, managing agents, servants, employees, alter-egos, co-conspirators, joint-venturers,
24 partners, successors in interest and predecessors in interest of each of the other Defendants.

25 12. At all times herein mentioned, Defendants were acting within the purpose, course and scope
26 of said agency and/or employment so as to invoke vicarious liability and *respondeat superior* liability
27 among other theories of liability to hold Defendants liable and responsible for the injuries and damages
28 to Plaintiff.

1 13. At all times herein mentioned, Defendants were members of and engaged in a joint venture,
2 partnership and common enterprise, and acting within the purpose, course and scope of, and in pursuit
3 of, said joint venture, partnership and common enterprise.

4 14. At all times herein mentioned, the acts and omissions of various Defendants contributed to the
5 various acts and omissions of each and all of the other Defendants in proximately causing the injuries
6 and damages as herein alleged.

7 15. At all times herein mentioned, Defendants, including Defendants MOHAJERI, INC.,
8 CHANGIZ MOHAJERI, and ANTOJITOS LATINOS MARKET's managing agents, officers and
9 directors, had advanced knowledge of and/or ratified each and every act or omission complained
10 throughout this complaint. At all times relevant herein, Defendants and/or their managing agents,
11 officers or directors committed and/or participated in the wrongful acts and omissions complained of
12 throughout this complaint or ratified such acts and omissions. At all times herein mentioned, the
13 Defendants aided and abetted the acts and omissions of each and all of the other Defendants in
14 proximately causing the damages as herein alleged.

15 16. Plaintiff is informed and believes, and based thereon alleges that there exists such a unity of
16 interest and ownership between Defendants that the individuality and separateness of Defendants have
17 ceased to exist.

18 17. The business affairs of Defendants are, and at all times relevant hereto were, so mixed and
19 intermingled that the same cannot reasonably be segregated, and the same are in inextricable
20 confusion.

21 18. The recognition of the separate existence of any Defendants would not promote injustice, in
22 that it would permit that Defendants to wrongfully insulate itself from liability to Plaintiff.

23 19. Plaintiff is informed and believes, and based thereon alleges, that at all relevant times there has
24 existed a unity of interest and ownership between Defendants such that any individuality and
25 separateness between the entities has ceased.

26 20. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the
27 corporate privilege, and would promote injustice by protecting Defendants from liability for the
28 wrongful acts committed by it.

21. Plaintiff is informed and believes, and based thereon alleges that Defendants are alter egos of each other.

22. The individual defendants CHANGIZ MOHAJERI and DOES 1 through 20 have treated the corporate Defendants MOHAJERI, INC. and ANTOJITOS LATINOS MARKET as their “alter ego”, rather than as a separate entity.

23. Upholding the corporate entity and allowing for the shareholders to dodge personal liability for its debts would sanction a fraud or promote an injustice.

24. Additionally, per *Labor Code 558.1*, each individual Defendant and DOES 1 through 20 are liable for their direct causation of wage and hour violations against Plaintiff and other aggrieved employees.

GENERAL FACTS AND ALLEGATIONS

25. This is an action brought by Plaintiff MARIA CRUZ VASQUEZ (“Plaintiff”) pursuant to California statutory, decisional, and regulatory laws. Plaintiff was an employee of Defendants. Plaintiff was at all times relevant to this complaint, employed by Defendants.

26. At all relevant times set forth herein, Defendants, jointly and severally, employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California, including the County of Orange.

27. Plaintiff is informed, believes and thereon alleges that Defendant MOHAJERI, INC. is a grocery store business named ANTOJITOS LATINOS MARKET, located at 25381 Alicia Parkway, Suite N, Laguna Hills, California 92653. This is the location where Defendants employed Plaintiff.

28. Plaintiff is informed, believes and thereon alleges that Defendant CHANGIZ MOHAJERI is the chief executive officer, secretary, chief financial officer, a director, and agent for service of process for Defendant MOHAJERI, INC., and controlled or affected the working conditions, wages, working hours, scope and conditions of employment of Plaintiff and other employees, along with managing the day-to-day operations of the business.

29. Defendants employed Plaintiff as a cashier for approximately 15 years, through approximately January 21, 2022.

30. Plaintiff's final check was not paid to her within 72-hours of Plaintiff's separation. Instead,

1 Defendants informed Plaintiff of their "common practice" of requiring signatures from a former
2 employee in order to issue final wages.

3 31. Plaintiff and other employees were not afforded proper meal and rest breaks. For example,
4 Plaintiff worked shifts in excess of 5 hours without a meal break, due to the Defendants' busy schedule.
5 Plaintiff would often eat while working due to this schedule.

6 32. Defendants failed to properly pay out Plaintiff's and other employees' sick leave.

7 33. Defendants communicated work matters to their employees' cell phones without
8 reimbursement.

9 34. Defendants' unfairly rounded employees' hours worked. This resulted in an underpayment of
10 wages to their employees.

11 35. Defendants' timekeeping machine would frequently become out of service and Defendants
12 failed to adequately keep record of employees' time worked, in violation of *LC 1174(d)* and the
13 applicable wage order(s).

14 36. Plaintiff is informed and believes, and based thereon alleges that Defendants controlled or
15 affected the working conditions, wages, working hours, scope and conditions of employment of
16 Plaintiff during Plaintiff's employment with Defendants.

17 37. Plaintiff alleges that California statutory, decisional, and regulatory laws prohibit the conduct
18 by Defendants herein alleged, and therefore Plaintiff has an entitlement to monetary relief on the basis
19 that Defendants violated such statutes, decisional law, and regulations.

20 38. Plaintiff alleges that Defendants failed to compensate Plaintiff for all hours worked, missed,
21 short, late, and/or interrupted meal periods and/or rest breaks.

22 39. Defendants had the authority to hire and terminate Plaintiff, to set work rules and conditions
23 governing Plaintiff's employment, and to supervise her daily employment activities. Therefore,
24 Defendants controlled Plaintiff's employment.

25 40. Defendants directly hired and paid wages to Plaintiff.

26 41. Plaintiff alleges that at all relevant times, Defendants were each an "employer" of Plaintiff
27 within the meaning of all applicable California state laws and statutes.

28 42. At all times herein mentioned, Defendants ratified each and every act or omission complained

1 herein.

2 **Wage and Hour Allegations:**

3 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a
4 uniform policy of wage abuse against their hourly-paid or non-exempt employees within the State of
5 California. This uniform policy involved, inter alia, failing to pay them for all hours worked, missed,
6 short, late, and/or interrupted meal periods, rest breaks, etc. in violation of California law.

7 44. Plaintiff is informed and believes, and based thereon alleges, that at all material times set forth
8 herein, Defendants were advised by skilled lawyers and other professionals, employees, and advisors
9 knowledgeable about California and federal labor and wage law and employment and personnel
10 practices, and about the requirements of California and federal law.

11 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should
12 have known that Plaintiff was entitled to receive certain wages for overtime compensation and that
13 Plaintiff was not receiving wages for overtime compensation.

14 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide
15 Plaintiff the required rest and meal periods during the relevant time period as required under the
16 Industrial Welfare Commission Wage Orders and thus Plaintiff was entitled to any and all applicable
17 penalties.

18 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should
19 have known that Plaintiff was entitled to receive all meal periods or payment of one additional hour
20 of pay at Plaintiff's regular rate of pay when a meal period was missed, and Plaintiff did not receive
21 all meal periods or payment of one additional hour of pay at Plaintiff's regular rate of pay when a meal
22 period was missed.

23 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should
24 have known that Plaintiff was entitled to receive all rest periods or payment of one additional hour of
25 pay at Plaintiff's regular rate of pay when a rest period was missed, and Plaintiff did not receive all
26 rest periods or payment of one additional hour of pay at Plaintiff's regular rate of pay when a rest
27 period was missed.

28 49. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should

1 have known that Plaintiff was entitled to receive all wages owed to him upon discharge or resignation,
2 including overtime, minimum wages, meal and rest period premiums, and Plaintiff did not, in fact,
3 receive all such wages owed to him at the time of his discharge or resignation.

4 50. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should
5 have known that Plaintiff was entitled to receive all wages owed to him during his employment.
6 Plaintiff did not receive payment of all wages, including overtime and minimum wages and meal and
7 rest period premiums, within any time permissible under California Labor Code section 204.

8 51. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should
9 have known that Plaintiff was entitled to receive complete and accurate wage statements in accordance
10 with California law, however Plaintiff did not receive complete and accurate wage statements from
11 Defendants. The deficiencies included, inter alia, the failure to include the total number of hours
12 worked by Plaintiff.

13 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should
14 have known that Defendants had to keep complete and accurate payroll records for Plaintiff in
15 accordance with California law, but, in fact, did not keep complete and accurate payroll records.

16 53. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should
17 have known that they had a duty to compensate Plaintiff pursuant to California law, and that Defendant
18 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed
19 to do so, and falsely represented to Plaintiff that Plaintiff was properly denied wages, all in order to
20 increase Defendant's profits.

21 54. Plaintiff alleges that during the time of his employment, these Defendants acted negligently,
22 recklessly, and/or intentionally to routinely deprive Plaintiff of statutorily mandated rest breaks during
23 work shifts of four (4) hours or greater. Defendants also intentionally failed to compensate Plaintiff
24 for those missed rest breaks over the entire period of her employment with Defendants.

25 55. Plaintiff was not properly compensated for his overtime hours and Defendants failed to keep
26 accurate records of Plaintiff's overtime hours and compensation.

27 56. Defendants, and each of them, violated other provisions of the laws of the State of California,
28 including Employment Laws and Regulations which provide for a civil penalty to be assessed and

1 collected by the California Labor and Workforce Development Agency or its various departments,
2 divisions, commissions, boards, agencies, or employees.

3 57. In addition to any other remedies which may be available at law or equity, or as may otherwise
4 asserted herein, Plaintiff seeks payment of overtime wages and other compensation owed to him, plus
5 all benefits required pursuant to the laws of the State of California, including Employment Laws and
6 Regulations, based on the sums withheld from Plaintiff. Plaintiff also seeks recovery of penalties,
7 attorney's fees, and costs as provided by statute.

8 58. Plaintiff seeks restitution and disgorgement of all sums wrongfully obtained by Defendants
9 through their unfair business practices in violation of California Business & Professions Code Section
10 17200 et seq., to prevent Defendants from benefitting from their ongoing unfair practices, and which
11 sums recovered under the Unfair Competition Act and Unfair Businesses Act are equitable in nature
12 and are not to be considered damages. Plaintiff is also entitled to costs, attorney's fees, interest and
13 penalties as provided for by the California Labor Code and California Business & Professions Code.

14 59. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit
15 the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under
16 this article."

17 60. WHEREFORE, Plaintiff requests relief as hereinafter provided.

18 **PRIVATE ATTORNEY GENERAL ACT OF 2004 ("PAGA")**

19 **(Cal. Lab. Code section 2698 et seq.)**

20 61. In 2003, California's Legislature declared that, "staffing levels for state labor law enforcement
21 agencies have, in general, declined over the last decade and are likely to fail to keep up with the growth
22 of the labor market in the future. It is therefore in the public interest to provide that civil penalties for
23 violations of the Labor Code may also be assessed and collected by aggrieved employees acting as
24 private attorneys general, while also ensuring that state labor law enforcement agencies' enforcement
25 actions have primacy over any private enforcement efforts undertaken pursuant to this act." *Dunlap v.*
26 *Superior Court* (2006) 142 Cal.App.4th 330, 337-338, citing Stats. 2003. Ch. 906 § 1.

27 62. In response, California's Legislature passed the Private Attorney General Act of 2004
28 ("PAGA"), which "was adopted to empower aggrieved employees, acting as private attorneys general,

1 to seek civil penalties for Labor Code violations, penalties which previously could be assessed only
2 by state agencies.” *Dunlap v. Superior Court* (2006) 142 Cal.App.4th 330, 336. “Thus, PAGA
3 empowers or deputizes an aggrieved employee to sue for civil penalties ‘on behalf of himself or herself
4 and other current or former employees’ as an alternative to enforcement by the LWDA.” *Id.* At 337
5 citing to Cal. Lab. Code 2699(a). Class action requirements do not apply to representative actions
6 brought by one employee on behalf of other current or former employees under the PAGA. *Arias v.*
7 *Superior Court* (2009) 46 Cal. 4th 969, 984.

8 63. Prior to bringing the action, the aggrieved employee shall give written notice by certified mail
9 to the Labor and Workforce Development Agency and the employer of the specific provisions of this
10 code alleged to have been violated, including the facts and theories to support the alleged violation.
11 *Cal. Lab. Code* 2699.3 (c)(1). The agency shall notify the employer and the aggrieved employee or
12 representative by certified mail that it does not intend to investigate the alleged violation within 60
13 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of
14 that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given
15 pursuant to paragraph (1), the aggrieved employee may commence a civil action pursuant to Section
16 2699.

17 64. The aggrieved employee is entitled to keep 25% of the civil penalties recovered in the PAGA
18 action and the remaining 75% goes to the Labor and Workforce Development Agency. *Cal. Lab. Code*
19 2699(i).

20 65. On March 3, 2022, Plaintiff MARIA CRUZ VASQUEZ filed and served its PAGA Notice
21 Letter, and gave written notice by certified mail to the Labor and Workforce Development Agency
22 (“LWDA”) and the employers (Defendants), of the specific conditions of the codes alleged to have
23 been violated, including the facts and theories to support the alleged violations. Attached hereto as
24 “**EXHIBIT A**”, is a true and correct copy of Plaintiff’s written PAGA Notice Letter, dated March 3,
25 2022.

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1 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**

2 **(Violation of the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.*)**

3 66. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

4 67. Plaintiff seeks civil penalties for the above acts, which violate the California Labor Code, under
5 the Private Attorneys General Act (“PAGA”), Cal. Labor Code § 2698 *et seq.*

6 68. Plaintiff is “aggrieved employees” under PAGA, as he was employed by Defendants during
7 the applicable statutory period and suffered one or more of the Labor Code violations set forth herein.
8 Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and former aggrieved
9 employees of Defendants, the civil penalties provided by PAGA, plus reasonable attorneys’ fees and
10 costs.

11 69. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted
12 by PAGA and the *California Supreme Court in Arias v. Superior Court*, (2009) 46 Cal.4th 969.
13 Therefore, class certification of the PAGA claims is not required.

14 70. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code
15 provisions:

- 16 a. failure to provide prompt payment of wages to employees upon termination and resignation
17 in violation of Labor Code § 201, 202, 203;
- 18 b. failure to provide itemized wage statements to employees in violation of Labor Code §§
19 226(a), 1174, and 1174.5;
- 20 c. failure to provide meal and rest periods in violation of all applicable IWC wage orders and
21 Labor Code §§ 1174 and 1174.5;
- 22 d. failure to pay overtime wages in violation of all applicable IWC wage orders and Labor
23 Code §§ 510, 558, 1194 and 1198;
- 24 e. failure to provide unpaid balance of full amount of overtime compensation in violation of
25 Labor Code section 1194 and 2698 *et seq.*;
- 26 f. failure to pay minimum wage in violation of all applicable IWC wage orders and Labor
27 Code §§ 1182.12, 1194, and 1197;
- 28 g. Violation of Labor Code section 1199 (a) and (c) and 2699.5 *et seq.*;

- h. failure to reimburse employees for all reasonably necessary expenditures and losses incurred by employees in direct consequence of the discharge of their duties and other work-related expenses, in violation of Labor Code section 2802;
- i. failure to provide itemized wage statements to employees in violation of Labor Code section 226(a); and
- j. Violation of Labor Code 226.8 by misclassifying its employees as independent contractors;
- k. Violations of California Labor Code sections 201; 202; 203; 204; 206; 216; 218.6; 221; 226 *et seq.*; 226.8; 432.5; 450; 226.7; 512; 1174; 1174.5; 2802; and all applicable IWC wage orders.

71. On March 3, 2022, Plaintiff MARIA CRUZ VASQUEZ filed and served its PAGA Notice Letter, and gave written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and the employers (Defendants), of the specific conditions of the codes alleged to have been violated, including the facts and theories to support the alleged violations. Attached hereto as “**EXHIBIT A**”, is a true and correct copy of Plaintiff’s written PAGA Notice Letter, dated March 3, 2022.

72. The LWDA did not provide notice of its intention to investigate Defendants’ alleged violations within sixty-five (65) calendar days of the postmark date of the notice sent by Plaintiff. *See* Cal. Labor Code section 2699.3(a)(2)(A).

73. With respect to violations of Labor Code section 226(a), Labor Code section 226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code section 226(a).

74. With respect to violations of Labor Code sections 510, 512, Labor Code section 558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each unpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

1 75. Moreover, Plaintiff seeks civil penalties in the amount of unpaid wages owed to aggrieved
2 employees pursuant to Labor Code section 558(a)(3).

3 76. With respect to violations of Labor Code section 1174, Labor Code section 1174.5 imposes a
4 civil penalty of \$500.

5 77. Labor Code section 2699 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay
6 period, per aggrieved employee for initial violations, and two hundred dollars (\$200) pay period, per
7 aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty
8 is not specifically provided, including Labor Code sections 226.7, 226.8, 1174, 1182.12, 1194, 1197,
9 1198, and 2802.

10 78. WHEREFORE, Plaintiff requests relief as hereafter provided.

11 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS**

12 **(Failure to Pay Minimum Wage)**

13 **(Cal. Lab. Code §§ 1182.12, 1194, 1197 & 1198 *et seq.*)**

14 79. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

15 80. Pursuant to Labor Code §§ 1194, 1194.2, and 1197, it is unlawful for an employer to suffer or
16 permit a California employee to work without paying wages at the proper minimum wage for all time
17 worked.

18 81. At all times material hereto, “hours worked” included “the time during which an employee is
19 subject to the control of an employer, and includes all the time the employee is suffered or permitted
20 to work, whether or not required to do so.”

21 82. During the liability period, Plaintiff suffered, permitted to work, and required to perform work
22 “off-the-clock,” for which he received no pay.

23 83. As a direct and proximate result of Defendants’ failure to pay Plaintiff the minimum wage,
24 Plaintiff has been damaged in the amount of unpaid minimum wages. Pursuant to Labor Code §§
25 1194 and 1194.2, Plaintiff is entitled to recover the full amount of unpaid minimum wages, liquidated
26 damages in an equal amount, interest and attorney’s fees, all in a total amount subject to proof at time
27 of trial. In addition, insofar as the failure of Defendants to pay the minimum wage was willful, Plaintiff
28 who no longer works for Defendants are entitled to waiting time penalties pursuant to Labor Code §

1 200 *et seq.*

2 84. The aforementioned acts by Defendants were intentional, with the intention on the part of the
3 Defendants to deprive Plaintiff of his property and/or legal rights and causing injury to him. As a result
4 of Defendants' failure to compensate Plaintiff at the minimum wage, pursuant to Labor Code § 1197.1,
5 Plaintiff is entitled to civil penalties from Defendants of \$50 for each underpaid employee for each
6 pay period for which the employee is underpaid, for the initial violation; and \$100 for each underpaid
7 employee for each pay period for which the employee is underpaid, for each subsequent violation.

8 85. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
9 Code §558.1.

10 86. WHEREFORE, Plaintiff requests relief as hereinafter provided.

11 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**

12 **(Failure to Compensate for All Hours Worked)**

13 **(Cal. Lab. Code § 1198 *et seq.*)**

14 87. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

15 88. At all times relevant herein, Defendants were required to compensate Plaintiff for all hours
16 worked upon reporting for work at the appointed time stated by Defendants, pursuant to applicable
17 IWC Wage Orders, and Labor Code §§ 200, 226, 500, 510, and 1197.

18 89. At all times relevant hereto, Defendants failed to compensate Plaintiff for all hours worked by
19 not compensating him for work performed. Defendants failed to pay minimum wages; Defendants
20 failed to provide breaks as required by law; Defendants failed to compensate employees for all
21 overtime worked; Defendants failed to pay for break periods; Defendants did not accurately record
22 hours worked; Defendants failed to properly itemize wages.

23 90. Under the applicable IWC Wage Orders and California law, Plaintiff is entitled to recover
24 compensation for all hours worked, but not paid, for the three (3) years preceding the filing of this
25 Complaint, plus reasonable attorney's fees and costs of suit pursuant to Labor Code § 218.5, and
26 penalties pursuant to Labor Code §§ 203 and 226.

27 91. In violation of state law, Defendants have knowingly and willfully refused to perform their
28 obligations to compensate Plaintiff for all wages earned and all hours worked. As a direct result,

1 Plaintiff has suffered, and continues to suffer, substantial losses related to the use and enjoyment of
2 such wages, lost interest on such wages, and expenses and attorney's fees in seeking to compel
3 Defendants to fully perform their obligations under state law, all to his respective damage in amounts
4 according to proof at time of trial, but not in amounts in excess of the jurisdiction of this Court.

5 92. Defendants committed the acts alleged herein knowingly and willfully, with the wrongful and
6 deliberate intention of injuring Plaintiff, and in conscious disregard of Plaintiff's rights. Plaintiff is
7 thus entitled to recover nominal, actual, compensatory, and liquidated damages in amounts according
8 to proof at time of trial, but not in amounts in excess of the jurisdiction of this Court.

9 93. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an
10 amount according to proof at time of trial, but not in an amount in excess of the jurisdiction of this
11 Court.

12 94. Defendants' conduct described herein violates Labor Code §§ 200, 226, 500, 1197 and 1198,
13 and applicable IWC Wage Orders. Therefore, pursuant to Labor Code §§ 203, 218.5, 226, 558, 1194,
14 and 1194.2, Plaintiff is entitled to recover damages for the nonpayment of wages of all hours worked
15 that were improperly deducted by Defendants' policies, penalties, reasonable attorney's fees,
16 expenses, and costs of suit.

17 95. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
18 Code §558.1.

19 96. WHEREFORE, Plaintiff requests relief as hereinafter provided.

20 **FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

21 **(Failure to Pay Overtime Compensation)**

22 **(Cal. Lab. Code §§ 1198 & 510 *et seq.*)**

23 97. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

24 98. Pursuant to applicable IWC Wage Orders, and Labor Code §§ 200, 226, and 1198, at all times
25 relevant hereto, Defendants were required to compensate Plaintiff for all overtime, which is calculated
26 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours
27 per day and/or forty (40) hours per week.

28 99. Pursuant to applicable IWC Wage Orders, and Labor Code §§ 200, 226, and 1198, as of

1 January 1, 1998, Defendants were required to compensate Plaintiff for all overtime, which is calculated
2 as one and one-half (1½) times the regular rate of pay for hours worked in excess of forty (40) hours
3 per week.

4 100. Pursuant to Labor Code §§ 200, 226, 500, 510, and 1198, Defendants were required to
5 compensate Plaintiff for all overtime, which is calculated at one and one-half (1½) times the regular
6 rate of pay for hours worked in excess of eight (8) hours per day.

7 101. Plaintiff was a non-exempt employee entitled to the protections of California Labor Code §§
8 200, 226, 500, 510, and 1198. During the course of Plaintiff's employment, Defendants failed to
9 properly compensate him for overtime hours worked as required under the aforementioned Labor Code
10 sections.

11 102. In violation of state law, Defendants have knowingly and willfully refused to perform their
12 obligations to compensate Plaintiff for all wages earned and all hours worked.

13 103. As a direct result of aforementioned violations, Plaintiff has suffered, and continues to suffer,
14 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and
15 expenses and attorney's fees in seeking to compel Defendants to fully perform their obligations under
16 state law, all to his respective damage in amounts according to proof at time of trial, but not in amounts
17 in excess of the jurisdiction of this Court.

18 104. Defendants' conduct described herein violates Labor Code §§ 200, 226, 500, 510 and 1198.
19 Therefore, pursuant to Labor Code § 200, 203, 218.5, 226, 558, and 1194, Plaintiff is entitled to
20 recover the unpaid balance of overtime compensation Defendants owe Plaintiff and civil penalties
21 (including the penalties described in Labor Code § 558 and other statutory penalties) plus interest
22 penalties, attorney's fees, expenses, and costs of suit.

23 105. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
24 Code §558.1.

25 106. WHEREFORE, Plaintiff requests relief as hereinafter provided.

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1 **FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

2 **(Failure to Pay Rest Period Compensation)**

3 **(Cal. Lab. Code §§ 226.7 & 1198 *et seq.*)**

4 107. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

5 108. Defendants failed to allow Plaintiff to take rest periods during every four-hour period worked.
6 The law requires that non-exempt employees be allowed a 10-minute break during every four-hour
7 work period, or major fraction thereof. Defendants denied him such breaks.

8 109. In addition, Plaintiff is entitled to recover interest on the unpaid rest period wages due to him.
9 Further, Plaintiff demands reasonable attorney's fees and costs of suit, pursuant to Labor Code § 218.5,
10 plus all appropriate penalties for the wage and hour violations, in addition to the one-hour's
11 compensation as premium pay as provided for by law.

12 110. As a result of the conduct alleged herein, Plaintiff was damaged by Defendants' failure to pay
13 wages for breaks withheld in an amount to be established at the time of trial. Moreover, Defendants'
14 failure to pay wages, as alleged herein was at all times knowing and willful.

15 111. Plaintiff is not only entitled to compensation for the lost rest periods, but to the extent that
16 Defendants claim that rest periods were taken which are not documented, Plaintiff also seeks all
17 applicable penalties for Defendants' failure to keep accurate time records and to issue to Plaintiff his
18 accurate earnings statements.

19 112. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
20 Code §558.1.

21 113. WHEREFORE, Plaintiff requests relief as hereinafter provided.

22 **SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

23 **(Failure to Pay Meal Period Compensation)**

24 **(Cal. Lab. Code §§ 226.7, 512(a) & 1198 *et seq.*)**

25 114. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

26 115. At all times herein mentioned, Plaintiff was a non-exempt employee and subject to the meal
27 period provisions.

28 116. Defendant failed to allow Plaintiff to take 30-minute meal periods for every 5 hours worked.

1 Defendant denied him such breaks. Thus, Defendant sometimes deprived employees of both his meal
2 period and the 30 minutes pay for the time when the employees were working, when they should have
3 been allowed to take their meal breaks.

4 117. Wages are due to employees for “all hours worked” pursuant to applicable laws, rules, orders,
5 requirements, and regulations. Plaintiff demands all applicable reimbursement and penalties for his
6 lost meal breaks, in addition to the one-hour’s compensation due under the wage order. Further,
7 Plaintiff demands reasonable attorney’s fees and costs of suit, pursuant to Labor Code § 218.5.

8 118. Under California law, meal periods must be recorded unless all operations cease during the
9 scheduled meal periods. Defendant failed to record the meal periods. Plaintiff is not only entitled to
10 compensation for the lost meal periods, but to the extent that Defendant claims that meal periods were
11 taken which are not documented, Plaintiff also seeks all applicable penalties for Defendant’s failure
12 to keep accurate time records and to issue to Plaintiff his accurate earnings statements.

13 119. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
14 Code §558.1.

15 120. WHEREFORE, Plaintiff requests relief as hereinafter provided.

16 **SEVENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

17 **(Failure to Furnish Accurate Wage and Hour Statements)**

18 **(Cal. Lab. Code § 226)**

19 121. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

20 122. At all relevant times herein, California Labor Code section 226(a) provides that every
21 employer shall furnish each of his or her employees an accurate and complete itemized wage statement
22 in writing, including, but not limited to, the name and address of the legal entity that is the employer,
23 the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

24 123. During the relevant time period, Defendants have knowingly and intentionally provided
25 Plaintiff with uniform, incomplete, and inaccurate wage statements. Specifically, Defendants violated
26 sections 226(a)(1), 226(a)(5), 226(a)(8), and 226(a)(9). Because Plaintiff was forced to work during
27 all or part of his rest break periods, and because Defendants did not calculate Plaintiff’s regular rate
28 of pay correctly for purposes of paying overtime, Defendants did not list the correct amount of gross

1 wages earned by Plaintiff in compliance with section 226(a)(1). For the same reasons, Defendants
2 failed to list the correct amount of net wages earned by Plaintiff in violation of section 226(a)(5).
3 Plaintiff was damaged by these failures because, among other things, these failures led him to believe
4 that he was not entitled to be paid overtime, even though he was so entitled and because these failures
5 hindered him from determining the amounts of overtime wages owed to him.

6 124. Defendants also failed to correctly list all applicable hourly rates in effect during the pay
7 period, namely, correct overtime rates of pay and correct rates of pay for premium wages, as a result
8 of miscalculating the regular rate of pay, in violation of section 226(a)(9).

9 125. The wage statement deficiencies also include, among other things, failing to list total hours
10 worked by employees; failing to list the number of piece-rate units earned and any applicable piece
11 rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive
12 dates of the period for which employees were paid; failing to list the name of the employee and only
13 the last four digits of his or her social security number or an employee identification number other
14 than a social security number; failing to list the correct name of the legal entity that is the employer;
15 and/or failing to state all hours worked as a result of not recording or stating the hours he or she worked
16 off-the-clock.

17 126. By causing Plaintiff to work without compensation, Defendants have violated the requirement
18 that the total hours worked and all wages earned is included in the wage statement that must be
19 provided to Plaintiff.

20 127. Plaintiff was damaged by these failures because, among other things, these failures led Plaintiff
21 to believe that he was not entitled to be paid overtime, even though he was so entitled and because
22 these failures hindered Plaintiff from determining the amounts of overtime wages owed to him.

23 128. By virtue of Defendants' knowing, intentional, and unlawful failure to provide accurate wage
24 statements, Plaintiff has suffered, and will continue to suffer, damages in amounts, which will be
25 ascertained according to proof at trial.

26 129. Plaintiff is entitled to recover from Defendants the greater of his actual damages caused by
27 Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not
28 exceeding four thousand dollars (\$4,000) per employee.

1 130. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
2 Code §558.1.

3 131. WHEREFORE, Plaintiff requests relief as hereinafter provided.

4 **EIGHTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

5 **(Failure to Pay Wages Upon Discharge)**

6 **(Cal. Lab. Code §§ 201 & 202 *et seq.*)**

7 132. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

8 133. Pursuant to California Labor Code § 201, upon former employee Plaintiff's termination date,
9 Defendants were required to pay Plaintiff all earned wages. At the time of former employee Plaintiff's
10 termination date, former employee Plaintiff had unpaid wages. In violations of Labor Code § 201,
11 Defendants failed to pay former employee Plaintiff any amount of wages due and owing him, in
12 amounts to be proven at the time of trial, but not in excess of the jurisdiction of this Court.

13 134. Defendants' failure to pay former employee Plaintiff the wages due and owing him was willful,
14 and done with the wrongful and deliberate intention of injuring Plaintiff, and in conscious disregard
15 of Plaintiff's rights. Plaintiff is thus entitled to recover nominal, actual, compensatory, and liquidated
16 damages in amounts according to proof at time of trial, but not in amounts in excess of the jurisdiction
17 of this Court.

18 135. Defendants' willful failure to pay Plaintiff the wages due and owing to him constitutes
19 violations of Labor Code §§ 201 and 203, which provides that an employee's wages will continue as
20 a penalty for up to thirty (30) days from the time the wages were due. Therefore, Plaintiff is entitled
21 to statutory penalties pursuant to Labor Code § 203.

22 136. Pursuant to Labor Code § 218.5, Plaintiff is also entitled to an award of reasonable attorney's
23 fees, expenses, and costs incurred in this action.

24 137. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
25 Code §558.1.

26 138. WHEREFORE, Plaintiff requests relief as hereinafter provided.

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28 ///

1 **NINTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

2 **(Statutory Penalties)**

3 **(Cal. Lab. Code §§ 203 and 558)**

4 139. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

5 140. Labor Code section 201 provides, in relevant part: “(a) If an employer discharges an employee,
6 the wages earned and unpaid at the time of discharge are due and payable immediately.”

7 141. Labor Code section 202 provides in relevant part:

8 “(a) If an employee not having a written contract for a definite period quits his or her
9 employment, his or her wages shall become due and payable not later than 72 hours thereafter,
10 unless the employee has given 72 hours previous notice of his or her intention to quit, in which
11 case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any
12 other provision of law, an employee who quits without providing 72-hour notice shall be
13 entitled to receive payment by mail if he or she so requests and designates a mailing address.
14 The date of the mailing shall constitute the date of payment for purposes of the requirement to
15 provide payment within 72 hours of the notice of quitting.”

16 142. Labor Code section 203 provides:

17 “If an employer willfully fails to pay, without abatement or reduction, in accordance with
18 Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who
19 quits, the wages of the employee shall continue as a penalty from the due date thereof at the
20 same rate until paid or until an action therefore is commenced; but the wages shall not continue
21 for more than 30 days. An employee who secretes or absents himself or herself to avoid
22 payment to him or her, or who refuses to receive the payment when fully tendered to him or
23 her, including any penalty then accrued under this section, is not entitled to any benefit under
24 this section for the time during which he or she so avoids payment. Suit may be filed for these
25 penalties at any time before the expiration of the statute of limitations on an action for the
26 wages from which the penalties arise.”

27 143. By willfully failing to pay its separated employee the amounts owed in a timely manner as
28 required by Labor Code sections 201 and 202, Defendants are liable for statutory penalties pursuant

1 to Labor Code § 203, in an amount equal to thirty (30) days of said employee's per diem wage rate.
2 These statutory penalties, in a sum to be proven at trial, are owed and unpaid.

3 144. Labor Code section 558 provides:

4 “(a) Any employer or other person acting on behalf of an employer who violates, or causes to
5 be violated, a section of this chapter or any provision regulating hours and days of work in any
6 order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

7 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay
8 period for which the employee was underpaid in addition to an amount sufficient to recover
9 underpaid wages.

10 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee
11 for each pay period for which the employee was underpaid in addition to an amount sufficient
12 to recover underpaid wages.

13 145. By violating Labor Code sections above and the within-referenced orders of the Industrial
14 Welfare Commission, Defendants are liable for statutory penalties pursuant to Labor Code § 558, in a
15 sum to be proven at trial.

16 146. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
17 Code §558.1.

18 147. WHEREFORE, Plaintiff requests relief as hereinafter provided.

19 **TENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

20 **(Failure to Indemnify and Illegal Deductions from Wages)**

21 **(Cal. Lab. Code § 2802)**

22 148. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

23 149. Pursuant to Labor Code § 2802, requiring employees to expend monies or indemnify their
24 employer for losses in direct consequence of the discharge of their duties is unlawful. Pursuant to
25 aforementioned orders, Labor Code § 226, and other laws of the State of California, it is also unlawful
26 for employers to make set-offs and/or deductions from employees' wages and fail to properly itemize
27 all deductions from wages.

28 150. At all times relevant hereto, Plaintiff was employed by Defendants, and each of them, within

1 the State of California. Defendant was required to indemnify and reimburse Plaintiff for all
2 expenditures or losses incurred in direct consequence of the discharge of Plaintiff's duties, but failed
3 to indemnify and reimburse as an employer is required to do under the laws and regulations of the
4 State of California; further, Defendant made unlawful deductions and/or set-offs from Plaintiff's
5 wages, and failed to properly itemize all deductions from wages in violation of Labor Code §§ 226
6 and 2802, and aforementioned Orders; Defendant also breached the employment contract by failing
7 to fully reimburse Plaintiff for, or requiring Plaintiff to pay other employees out of Plaintiff's own
8 compensation; failing to pay for all hours worked; failing to provide breaks as required by law; failing
9 to provide meal periods as required by law; illegally not accurately recording time worked; and other
10 reason to be discovered.

11 151. At all times relevant hereto, Defendant has withheld indemnification from, charged, deducted,
12 and or set-off the wages of Plaintiff, for illegal purposes.

13 152. Defendants communicated work matters to their employees' cell phones without
14 reimbursement.

15 153. In violation of state law, Defendant has knowingly and willfully refused to perform its
16 obligations to compensate Plaintiff for all wages earned and all hours worked and failed to properly
17 indemnify and reimburse Plaintiff. As a direct result, Plaintiff has suffered, and continues to suffer,
18 substantial losses related to the use and enjoyment of such wages, lost interest on such wages, and
19 expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligation under
20 state law, respective damage in amounts according to proof at time of trial, but not in amounts in
21 excess of the jurisdiction of this Court.

22 154. Defendant committed the acts alleged herein knowingly and willfully, with the wrongful and
23 deliberate intention of injuring Plaintiff, and in conscious disregard of Plaintiff's rights. Plaintiff is
24 entitled to recover nominal, actual, compensatory, and liquidated damages in amounts according to
25 proof at time of trial, but not in amounts in excess of the jurisdiction of this Court.

26 155. Defendant's conduct described herein violates Labor Code §§ 200, 226 and 2802. As a
27 proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according
28 to proof at time of trial, but not in an amount in excess of the jurisdiction of this Court. Therefore,

1 pursuant to Labor Code §§ 200, 203, 218.5, 226, and 2802, Plaintiff is entitled to recover the unpaid
2 balances of wages Defendant owes Plaintiff, plus interest, statutory penalties, attorneys' fees,
3 expenses, and costs of suit.

4 156. Plaintiff alleges that Defendants are liable jointly and severally for damages pursuant to Labor
5 Code §558.1.

6 157. WHEREFORE, Plaintiff requests relief as hereinafter provided.

7 **ELEVENTH CAUSE OF ACTION ALL AGAINST DEFENDANTS**

8 **(Unfair Competition)**

9 **(Violation of California Business & Professions Code §§ 17200 *et seq.*)**

10 158. Plaintiff hereby incorporates all other paragraphs of this complaint herein as if set forth in full.

11 159. Business & Professions Code § 17200 prohibits unfair competition in the form of any unlawful,
12 unfair, or fraudulent business act or practice.

13 160. Business & Professions Code § 17204 allows “any person acting for the interests of itself, its
14 members or the general public” to prosecute a civil action for violation of the UCL.

15 161. Defendants are a “person” as defined by California Business & Professions Code sections
16 17201, as it is a corporation, firm, partnership, joint stock company, and/or association.

17 162. Beginning at an exact date unknown to Plaintiff, but at least since approximately 2020,
18 Defendants have committed unlawful, unfair, and/or fraudulent business acts and practices as defined
19 by Business & Professions Code § 17200, by engaging in the following conduct:

- 20 a. failing to pay Plaintiff minimum wage for all hours worked, as required by Labor Code §§
21 1182.12, 1194 *et seq.*, 1197 *et seq.* and applicable IWC wage orders;
- 22 b. failing to pay Plaintiff overtime compensation for all hours worked over eight (8) in a day
23 or forty (40) in a workweek, as required by Labor Code §§ 510, 1194 *et seq.* and applicable
24 IWC wage orders;
- 25 c. failing and/or refusing to provide rest and meal break periods to Plaintiff, as required by
26 Labor Code §§ 226.7 and 512 and applicable IWC wage orders;
- 27 d. failing to indemnify Plaintiff for employment-related business expenses and losses, as
28 required by Labor Code §2802;

- e. failing to provide accurate itemized wage statements to Plaintiff, as required by Labor Code § 226 and applicable IWC wage orders;
- f. failing to maintain payroll records showing the actual hours worked each day by Plaintiff as require by Labor Code § 1174 *et seq.* and applicable IWC wage orders; and
- g. failing to pay, upon termination of employment, all wages due to Plaintiff, as required by Labor Code §§ 201, 202, and 203.
- h. misclassifying Plaintiff as a contractor in violation of Cal. Lab. Code § 226.8 (b).

163. Defendants', and each of their, conduct as alleged herein, has been, and continues to be, unfair, and harmful to Plaintiff, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants', and each of their, unfair business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

164. A violation of California Business & Professions Code sections 17200 *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants' policies and practices have violated the spirit of California's meal and rest break laws and constitute acts against the public policy behind these laws. Plaintiff is entitled to restitution pursuant to Business & Professions Code §§ 17203 and 17208 for all unpaid wages, minimum wage, overtime pay, missed rest period compensation, reporting time compensation, and interest for four years prior to the filing of this complaint.

165. Pursuant to Business & Prof. Code §17203, Plaintiff is entitled to restitution of money acquired by Defendants by means of its unfair business practices, in amounts not yet ascertained but to be ascertained at trial.

166. Plaintiff is entitled to enforce all applicable penalty provisions of the Labor Code pursuant to Business & Professions Code § 17202.

167. By all of the foregoing alleged conduct, Defendants, and each of them, have committed, and are continuing to commit, ongoing unlawful, unfair and fraudulent business practices within the meaning of Business & Professions Code §17200 *et seq.*

168. Plaintiff has assumed the responsibility of enforcement of the laws and lawful claims specified herein. There is a financial burden incurred in pursuing this action, which is in the public interest.

1 Therefore, reasonable attorney's fees are appropriate pursuant to Cal. Code of Civil Procedure §
2 1021.5.

3 169. WHEREFORE, Plaintiff requests relief as hereinafter provided.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

- 6 1. For general damages, according to proof, on each cause of action for which such
7 damages are available in an amount not less than \$25,000;
- 8 2. For additional compensatory damages for Plaintiff's emotional pain and suffering, in
9 an amount to be proven at trial, in an amount not less than \$25,000;
- 10 3. That Defendants are found to have violated the above-referenced provisions of the
11 Labor Code and IWC Wage Orders as to Plaintiff;
- 12 4. That Defendants' actions are found to be willful and/or in bad faith to the extent
13 necessary under Sections 201, 202 and 203 of the Labor Code for failure to pay all
14 compensation owed at the time of separation to Plaintiff, as to Section 226 of the Labor
15 Code for willful failure to provide the required accurate and itemized wage statements
16 to Plaintiff;
- 17 5. That Defendants are found to have violated provisions of the Labor Code and Wage
18 Orders regarding meal periods and rest periods;
- 19 6. That Plaintiff receives an award in the amount of unpaid wages owed, including
20 interest thereon, and penalties subject to proof at trial;
- 21 7. An award to Plaintiff of statutory penalties because of Defendants' failure to provide
22 Plaintiff with itemized wage statements that comply with the requirements of Labor
23 Code § 226 and because of Defendants' failure to pay all wages due upon the date of
24 his termination, subject to proof at trial;
- 25 8. An order requiring Defendants to pay restitution of all amounts owed to Plaintiff for
26 Defendants' failure to pay legally required minimum wage, overtime compensation,
27 business expenses, missed meal break and rest break periods, pursuant to Business &
28 Professions Code § 17203;

- 1 9. For Statutory penalties under Labor Code Section 226.8;
- 2 10. For prejudgment interest at the legal rate pursuant to California Labor Code section
- 3 218.6 and other applicable sections;
- 4 11. For lost earnings;
- 5 12. For liquidated damages in an amount to be ascertained at trial;
- 6 13. For all other penalties as required by law;
- 7 14. For costs of suit incurred herein;
- 8 15. For restitution of money acquired by Defendants by means of their unfair business
- 9 practices pursuant to Business & Prof. Code § 17203;
- 10 16. For Labor Code penalties pursuant to pursuant to Business & Professions Code §
- 11 17202;
- 12 17. For civil penalties pursuant to California Labor Code sections 2699(a), (f), and (g);
- 13 18. For reasonable attorney's fees pursuant to California Labor Code section 218.5 and
- 14 other applicable sections; and
- 15 19. For such further relief as is appropriate in the interest of justice.

16

17 DATED: May 20, 2022

SIRMABEKIAN LAW FIRM, PC

18

19 By: 

Sarkis Sirmabekian, Esq.
Attorney for Plaintiff

20

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff hereby demands that this matter be tried before a jury under California Code of Civil

23 Procedure Section 631.

24 DATED: May 20, 2022

SIRMABEKIAN LAW FIRM, PC

25

26

27 By: 

Sarkis Sirmabekian, Esq.
Attorney for Plaintiff

EXHIBIT A



SIRMABEKIAN
LAW FIRM

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March 3, 2022

MOHAJERI, INC.
ANTOJITOS LATINOS MARKET
CHANGIZ MOHAJERI
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Laguna Hills, California 92653

via U.S. Certified Mail

MOHAJERI, INC.
ANTOJITOS LATINOS MARKET
CHANGIZ MOHAJERI
26941 La Alameda #4212
Mission Viejo, California 92691

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MOHAJERI, INC.
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Labor and Workforce Development Agency
("LWDA")
Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

filed online at:
<http://www.dir.ca.gov/>

**RE: MARIA CRUZ VASQUEZ'S Notice of Labor Code Violations Pursuant to
California Labor Code Section 2699 *et seq.* ("PAGA")**

Dear Sir or Madam:

Please be advised that MARIA CRUZ VASQUEZ (hereinafter "Plaintiff") has retained the Sirmabekian Law Firm, PC to represent her and other aggrieved employees for various California Labor Code violations including wage and hour claims against MOHAJERI, INC., ANTOJITOS LATINOS MARKET, and CHANGIZ MOHAJERI (hereafter referred to as "Employer," "Defendant," or "You" and/or referred to with "Your" and "Yours", and "EMPLOYER" or "DEFENDANT").

EMPLOYER is hereby on notice that Plaintiff seeks compensation and all other available relief. Pursuant to the procedures specified in California Labor Code Section 2699.3, Plaintiff claims that EMPLOYER has violated, and/or caused to be violated, several Labor Code provisions, and is therefore liable for civil penalties under California Labor Code 2698 *et seq.*

The scope of this PAGA letter is intended to include Plaintiff and all other aggrieved employees of all positions against whom the below labor law violations have been committed. The scope includes each employee of each employer named above, whether or not such employee was also employed by any of the remaining employers. Plaintiff and other aggrieved employees engaged in working as a cashier and other positions for Defendants.

The term “aggrieved employees” is broadly defined as all employees of either Defendant, regardless of exempt or non-exempt status, and regardless of whether such employee was also employed by the remaining Defendant. All employees are included in this definition, including positions other than that of Plaintiff.

Defendants describe themselves as a grocery business. Defendants employed Plaintiff as a cashier for approximately 15 years through approximately January 21, 2022 as a cashier.

The following are facts supporting allegations of Defendants’ labor code violations:

- Plaintiff's final check was not paid to her within 72-hours of Plaintiff's separation. Instead, Defendants informed Plaintiff of their "common practice" of requiring signatures from a former employee in order to issue final wages;
- Plaintiff and other employees were not afforded proper meal and rest breaks. For example, Plaintiff worked shifts in excess of 5 hours without a meal break, due to the Defendants' busy schedule. Plaintiff would often eat while working due to this schedule;
- Defendants failed to properly pay out Plaintiff's and other employees' sick leave;
- Defendants communicated work matters to their employees' cell phones without reimbursement;
- Defendants' unfairly rounded employees' hours worked. This resulted in an underpayment of wages to their employees;
- Defendants' timekeeping machine would frequently become out of service and Defendants failed to adequately keep record of employees' time worked, in violation of LC 1174(d) and the applicable wage order(s);

EMPLOYER deprived Plaintiff and other aggrieved employees of certain protections of the Industrial Welfare Commission Orders, including overtime pay, minimum wage, meal and rest periods, and sick pay and failure to reimburse under Labor Code 2802, among numerous other California Labor Code violations. Many other aggrieved employees were also treated as exempt from those protections.

Plaintiff and other aggrieved employees primarily engage(d) in duties that failed to meet the requirements of the various exemptions. They lacked the requisite discretion and independent judgment required by the labor code and the IWC Orders (without limitation) to qualify as exempt from various labor law protections. By misclassifying aggrieved employees, EMPLOYER deprived them of many protections.

Unlawful Failure to Pay Overtime

EMPLOYER fails to maintain a policy that compensates Plaintiff and other employees for all hours worked, including overtime. Specifically, EMPLOYER only pays employees for the majority of time that they spend at work. Many employees, including Plaintiff, routinely worked work over eight (8) hours per day and/or forty (40) hours per week but are not paid one and one-half their regular rate of pay for overtime work. As a result of violations of California Labor Code §§ 510, 1194, and applicable Industrial Welfare Commission Wage Orders for failure to pay overtime, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Unpaid Balance of Full Amount of Overtime Compensation

As described above, EMPLOYER has required employees to work hours in excess of eight hours in a day and forty hours in a week as a result of working their regular shifts, but EMPLOYER has not paid these employees overtime compensation. As a result, Plaintiff and other employees have been denied “the unpaid balance of the full amount of this ... overtime compensation” as required by California Labor Code § 1194, and EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Minimum Wage

EMPLOYER has failed to maintain a policy that compensates Plaintiff and other employees an amount equal to or greater than the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1 and applicable Industrial Welfare Commission Wage Orders. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation. EMPLOYER did not compensate Plaintiff and other employees for time spent working off the clock. As a result of violations of California Labor Code §§ 1194, 1197, 1197.1 and applicable Industrial Welfare Commission Wage Orders, for failure to pay minimum wage, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558, 1197.1, and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

EMPLOYER has failed to maintain a policy that provides Plaintiff and other employees with off-duty meal periods as required by California law. Plaintiff and similarly situated employees regularly worked in excess of five (5) hours a day without being provided at least half-hour meal periods in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and applicable Industrial Welfare Commission Wage Orders. EMPLOYER failed to pay Plaintiff and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed meal periods. They would be required to work through their meal breaks, or take short meal breaks, and no premium compensation was provided. Many employees, including Plaintiff, were forced

to skip or take untimely breaks without appropriate compensation. Here, Plaintiff and other employees were not afforded proper meal breaks. To illustrate, Plaintiff would work shifts in excess of five (5) hours without a meal break due to the Defendants' busy schedule and would often eat while working due to this schedule. As a result of violations of California Labor Code §§ 226.7 and 512 and applicable Industrial Welfare Commission Wage Orders, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

EMPLOYER has failed to maintain a policy that provides Plaintiff and other employees with off-duty rest periods as required by California law. Plaintiff and other employees regularly worked in excess of 3.5 hours or major fraction thereof during work days without being provided at least a ten-minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and applicable Wage Orders. EMPLOYER failed to pay Plaintiff and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed rest periods. Many employees, including Plaintiff, were forced to skip or take untimely rest breaks without appropriate compensation. Here, Plaintiff and other employees were not afforded proper rest breaks due to Defendants' busy schedule. As a result of violations of California Labor Code §§ 226.7, 512 and applicable Industrial Welfare Commission Wage Orders, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Reimburse Expenses

EMPLOYER has failed to indemnify Plaintiff and other employees for all necessary expenditures or losses incurred by Plaintiff. EMPLOYER did not reimburse Plaintiff for various work-related expenses. California Labor Code § 2802 requires the employer to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge their duties. Here, Defendants communicated work matters to their employees by cell phone and failed to reimburse those employees for cell phone expenses in violation of Section 2802. As a result of violations of California Labor Code § 2802, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558, 2802 and 2698 *et seq.*

Unlawful Failure to Furnish Wage Statements

EMPLOYER has violated California Labor Code § 226(a) by willfully failing to furnish Plaintiff and other employees with required wage statement information. As a result of violations of California Labor Code § 226(a), EMPLOYER is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of her or her employees, 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 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on

a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of her 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, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

Plaintiff and others were deprived of wage statements altogether, or various necessary items of information such as total hours worked, applicable hourly rates, and the employers' address. Moreover, EMPLOYER's employees' work hours, overtime time hours and pay, missed rest or meal break premiums, wages, without limitation, were misreported on their wage statements. Here, Defendants issued inadequate wage statements for, but not limited to, unfair rounding of employees' hours, which resulted in an underpayment of wages to their employees. As a result of violations of California Labor Code § 226(a), EMPLOYER is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Unlawful Failure to Keep Accurate Payroll Records of Daily Hours Worked

EMPLOYER has failed to keep payroll records showing total hours worked and wages paid to Plaintiff and other employees. Under California Labor Code § 1174(d), employers must keep "payroll records showing the hours worked daily by and the wages paid to ... employees "" Because EMPLOYER did not keep complete and accurate time records reflecting hours worked for Plaintiff and other employees, including, but not limited to, beginning work prior to the start of their shifts, working after the end of their shifts, and missed/short/late rest and meal breaks, it is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.* Section 6 or 7 of the applicable wage order requires the recording of this time. EMPLOYER would not keep track of action time. Instead, Defendants unfairly rounded employees' hours, which resulted in underpayment of wages to their employees. Further, Defendants' timekeeping machine would frequently become out of service and Defendants failed to adequately keep record of employees' time worked in violation of California Labor Code § 1174(d) and the applicable wage order(s). Defendants also failed to properly pay out Plaintiff's and others' sick leave. To the extent that EMPLOYER's failure to keep accurate payroll records was willful, it is liable for civil penalties under California Labor Code § 1174.5.

Unlawful Violation of California Labor Code § 1199

Under California Labor Code §§ 1199(a) and (c) and 2699.5 *et seq.*, an employer who "requires or causes any employee to work for longer hours than those fixed" or "violates or refuses or neglects to comply with any provision of" the Labor Code regarding employees' wages, hours, and working conditions, is subject to PAGA penalties. As

described above, EMPLOYER has required Plaintiff and other employees to work hours in excess of eight (8) in a day and forty (40) in a week (thereby violating § 1199(a)), failed to provide adequate rest and meal breaks, failed to pay minimum wage and has violated numerous provisions of the Labor Code pertaining to employee wages and hours (thereby violating § 1199(b)).

Accordingly, EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Wages Due Upon Termination

EMPLOYER has violated California Labor Code § § 201 and 202 by willfully failing to pay all compensation due and owing to Plaintiff and other employees at the time employment was terminated, EMPLOYER willfully failed to pay Plaintiff and other employees who are no longer employed by it all compensation due upon termination of employment as required under California Labor Code §§ 201 and 202 including, but not limited to, missing wages due to inaccurate tracking of employees' time records and failing to properly track their hours works and premium pay for missed/short/late meal and rest breaks. In addition, Defendants failed to pay Plaintiff and other former employees within 24 to 72 hours of separation from employment as required by California Labor Code. Instead, Defendants informed Plaintiff of their "common practice" of requiring signatures from a former employee in order to issue final wages. Plaintiffs and other employees are now also entitled to recover up to thirty (30) days of wages due to EMPLOYER's "willful" failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code.

Additionally, because EMPLOYER violated California Labor Code §§ 201, 201and 203 of the Labor Code, EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Conclusion

EMPLOYER has violated or has caused to be violated a number of California wage and hour laws. Plaintiff therefore intends to file civil claims for the aforementioned violations of the Labor Code and other law. Plaintiff requests the agency review this notice per PAGA's provisions.

Sincerely,

SIRMABEKIAN LAW FIRM, PC

A handwritten signature in black ink, appearing to read 'Sarkis Sirmabekian', with a stylized flourish at the end.

Sarkis Sirmabekian, Esq.