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Attorneys for Plaintiff JONATHAN KHODRA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JONATHAN KHODRA, on behalf of himself
and on behalf of all persons similarly situated,

Plaintiff,

v.

JHK HOSPITALITY, LLC, a Limited Liability
Company (dba La Quinta Inn & Suites by
Wyndham); and DOES 1-50, Inclusive,

Defendants.

Case No: 20STCV15655

**DECLARATION OF SHANI O. ZAKAY
IN SUPPORT OF MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

Hearing Date: October 1, 2021

Hearing Time: 8:30 AM

Reservation ID: 243018701512

Honorable Judge Richard J. Burdge
Department 37

Trial Date: None

Action Filed: April 22, 2020

1 I, SHANI O. ZAKAY, declare as follows:

2 1. I am the managing partner of the law firm of Zakay Law Group, APC, lead counsel
3 of record for Plaintiff Jonathan Khodra (“Plaintiff”) in this matter. As such, I am fully familiar
4 with the facts, pleadings and history of the matter. The following facts are within my own
5 personal knowledge, and if called as a witness, I could testify competently to the matters stated
6 herein.

7 2. This declaration is being submitted in support of the motion by Plaintiff for an
8 order: approving the settlement in this Private Attorneys General Act (“PAGA”) action with
9 Defendant JHK Hospitality, LLC (dba La Quinta Inn & Suites by Wyndham) (“Defendant”).

10 3. A true and correct copy of the fully executed Private Attorney General Act (Labor
11 Code Section 2698 *Et Seq.*) Settlement Agreement and Limited Release (“Settlement
12 Agreement”) is attached as Exhibit #1. A proposed order approving the PAGA settlement is
13 submitted herewith.

14 4. On February 12, 2020, Plaintiff gave written notice to the Labor and Workforce
15 Development Agency (“LWDA”) of his intent to assert a claim under PAGA and his alleged basis
16 for the claim. A true and correct copy of Plaintiff’s notice to the LWDA is attached as Exhibit #2.
17 At the time Plaintiff gave written notice to the LWDA, Plaintiff also submitted the \$75 filing fee
18 to the LWDA. A true and correct copy of the check confirming Plaintiff’s \$75 filing fee to the
19 LWDA is attached as Exhibit #3. More than 65 days passed after the letter and amended letter
20 were sent to the LWDA, and the LWDA has not indicated that it intends to investigate the alleged
21 violations referenced in the letters. On April 22, 2020, Plaintiff filed a Complaint against
22 Defendant in the Superior Court of the State of California, County of Los Angeles, alleging
23 claims that Defendant: (1) Violated California Business and Professions Code § 17200, *et seq.*; (2)
24 Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1;
25 (3) Failed to provide overtime wages in violation of California Labor Code § 510, *et seq.*; (4)
26 Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and
27 the applicable IWC Wage Order; (5) Failed to provide required rest periods in violation of
28 California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order; (6) Failed to

1 reimburse employees for required business expenses in violation of California Labor Code §
2 2802; (7) Failed to provide accurate itemized wage statements in violation of California Labor
3 Code § 226; (8) Failed to provide wages when due in violation of California Labor Code §§ 201,
4 202 and 203; (9) Failed to provide seating in violation of California Labor Code § 1198 and
5 California Code of Regulations, Title 8, Section 1 1070(14); and (10) Violation of the Private
6 Attorneys General Act in violation of Labor Code §§ 2698, *et seq.* On July 17, 2020, Plaintiff
7 submitted a copy of the file-stamped complaint to the LWDA. (See Exhibit #4.) After meeting
8 and conferring regarding the existence of an enforceable arbitration agreement between Plaintiff
9 and Defendant, which included a class action waiver, on October 20, 2020 Plaintiff filed a First
10 Amended Complaint, alleging a single cause of action for: (1) Violation of the Private Attorneys
11 General Act California Labor Code §§2689 *et seq.*

12 5. After engaging in some discovery, Plaintiff and Defendant agreed to mediate with
13 Hon. William C. Pate (Ret.), an experienced and reputable Jurist and wage and hour and PAGA
14 actions mediator. Prior to the mediation, in order to evaluate the potential value of the claims, the
15 Parties engaged in further, significant discovery, including a production of all of Defendant's
16 relevant wage and hour policies, the exchange of detailed statistical data regarding shifts worked
17 by Plaintiff and the PAGA Settlement Members, including a sample of payroll records and time
18 records, and the exchange of detailed briefing and analysis in connection with the mediation. On
19 April 20, 2021, Plaintiff and Defendant engaged in a full-day mediation with the Hon. William C.
20 Pate (Ret.) At the conclusion of the full-day mediation, the Parties were able to reach a settlement
21 based on Judge Pate's recommendation, which led to the signing of a Memorandum of
22 Understanding memorializing the settlement. Thereafter, on June 19, 2021, Plaintiff, Defendant,
23 and their counsel fully executed the long-form settlement agreement.¹ The settlement was
24 negotiated in light of all known facts and circumstances and the uncertainty associated with
25 litigation – including the risk of Plaintiff not being able to maintain representative claims, the
26

27 ¹ As part of the settlement and in addition to the Gross Settlement Amount, Defendant has agreed
28 to separately settle Plaintiff's individual claims which is set forth in a separate Individual
Settlement Agreement. The Individual Settlement Agreement is attached to the PAGA Settlement
Agreement as Exhibit B.

1 difficulty of proving Plaintiff's claims in a manageable trial, the merits of Defendant's potential
2 defenses, and the significant delay and potential appellate issues inherent to litigation. The
3 settlement calls for this PAGA case to be resolved for \$80,000.

4 6. The PAGA settlement is subject to Court approval consistent with Labor Code
5 §2699(1)(2) (Settlement Agreement at § 5.01). The Settlement Agreement negotiated by the
6 Parties provides for a "Gross Settlement Amount" payment in the amount of \$80,000.00 to
7 resolve the PAGA Claims (hereinafter referred to as the "PAGA Settlement"). From this PAGA
8 Settlement of \$80,000.00, there is a deduction of attorneys' fees in the amount of \$26,666.67
9 (which is one-third of the PAGA Settlement), reimbursement of incurred costs in an amount not to
10 exceed \$15,000, and Settlement Administration Costs, which will not exceed \$3,000. (Settlement
11 Agreement at § 5.01 – 5.03).² After these deductions, the amount remaining is the "PAGA
12 Payment", which is estimated to be \$35,333.33. Of the PAGA Payment amount, seventy-five
13 percent (75%) will be paid to the LWDA and the remaining twenty-five percent (25%) will be
14 paid to the PAGA Settlement Members (Settlement Agreement at 5.04).³ This 75/25 allocation is
15 required by Labor Code §2699 as explained by *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175.
16 The Gross Settlement Amount shall be due by Defendant to the Settlement Administrator within
17 30 days after the Effective Date. (Settlement Agreement at 6.04(c).)

18 7. PAGA Settlement Members will be issued Form 1099 for their share of the PAGA
19 payments. (Settlement Agreement at 6.04(b).) The Individual PAGA Payment for each PAGA
20 Settlement Member shall be based on the number of pay periods worked by each PAGA
21 Settlement Member during the PAGA Period as a percentage of the total pay periods worked by
22 all PAGA Settlement Members during the PAGA Period. (Settlement Agreement at 5.04.) The
23

24 ² In the event the Court approves less than One-Third of the PAGA Settlement Amount in
25 Attorneys' Fees or less than \$15,000 in Attorneys' Expenses to Plaintiff's Counsel, the unawarded
26 difference will be added to the PAGA Payment and not to Plaintiff's Counsel or the Defendant
27 (Settlement Agreement at 5.02). In the event the Court approves less than \$3,000 to administer the
28 settlement or if the actual cost to administer the settlement is less than \$3,000, the difference will
be added to the PAGA Payment. (*Id.* at 5.03.)

³ "PAGA Settlement Member" means all current and former hourly or non-exempt employees
employed by Defendant in California between February 12, 2019 and April 30, 2021. (Settlement
Agreement at § 1.01(iii).)

1 PAGA Period is the time period from February 12, 2019 and April 30, 2021. (Settlement
2 Agreement at § 1.01(iii).) Defendant has represented to Plaintiff's Counsel the number of pay
3 periods and PAGA Settlement Members. Defendant represents that there are approximately 35
4 PAGA Settlement Members who worked approximately 900 pay periods during the PAGA
5 Period. (Settlement Agreement at § 6.02). The PAGA settlement releases the "Released Claims"
6 as follows: Upon entry of Judgment and funding in full of the Settlement by Defendant, the
7 Released Parties shall be entitled to a release of any and all claims for civil penalties under PAGA
8 arising during the PAGA Period, based on the facts alleged in the operative complaint at the time
9 of approval by Plaintiff in the Action and Plaintiff's notice letter to the LWDA, and any resulting
10 claim for attorneys' fees and costs under PAGA, which occurred during the PAGA Period.
11 ("PAGA Released Claims") (Settlement Agreement at §1.01(xxiii).) to the State Controller's
12 Office, Unclaimed Property Division in the name of the absent PAGA Settlement Member,
13 subject to Court approval, and the PAGA Settlement Members shall remain bound by the
14 Settlement. (Settlement Agreement at §6.04(d)).

15 8. The additional amounts to be paid from the Settlement Sum other than the Net
16 PAGA Payment are as follows: (1) \$26,666.67 shall be paid to Plaintiff's Counsel for payment of
17 attorneys' fees, and up to \$15,000 shall be paid to Plaintiff's Counsel for litigation expenses as set
18 forth in the client's billing statement (pursuant to Declaration(s) by Plaintiff's Counsel) in
19 prosecuting the PAGA claims; and (2) a Settlement Administrator Fee in an amount not to exceed
20 \$3,000. Any difference from these maximum amounts will be added to the PAGA Fund.
21 (Settlement Agreement at § 5.01 – 5.03.)⁴

22 9. As experienced counsel, I believe that the PAGA Payment is fair and reasonable
23 and therefore should be approved. Here, the PAGA Settlement Amount of \$80,000 is significantly
24 more and constitutes approximately \$88.88 per pay period. The Settlement Sum compares
25 favorably to the estimated amount of PAGA penalties based on the violations alleged in Plaintiff's
26

27 ⁴ Plaintiff has entered into a separate confidential settlement agreement with Defendant in regards
28 to the settlement of his individual claims which provides for payment to him in exchange for a
general release of all claims.

1 complaint. California Labor Code Section 2699(e)(1) permits a Court to award a lesser amount
2 than the maximum civil penalty if based on the facts and circumstances to do otherwise would
3 result in an award that is "unjust, arbitrary and oppressive or confiscatory." Before and during the
4 mediation, Defendant argued, among other things, that it was unlikely that any Judge would
5 award more than the actual amounts owed on the claims, let alone the full \$100 or \$200 per
6 violation. In *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court of Appeal
7 affirmed a judgment after trial which only provided for a PAGA penalty of \$5 per pay period.
8 Therefore, at trial, any PAGA penalties awarded in this case could be significantly less than
9 Plaintiff's calculation, even had Plaintiff prevailed on the PAGA claim. Here, multiplying the
10 number of violations identified, assumed, and extrapolated by Plaintiff's expert (a maximum of
11 4,821 violations)⁵ by \$5 results in a total potential liability of **\$24,105**. Further, multiplying the
12 maximum number of pay periods (901) by \$5 results in a total potential liability of **\$4,505**.
13 Therefore, even assuming Plaintiff would have prevailed on all of his claims in trial, the result
14 obtained by Plaintiff in the Settlement exceeds the amount Plaintiff would have recovered had the
15 Court relied on *Carrington* in awarding the PAGA penalties.

16 10. The three primary claims in this PAGA action are based on (1) Defendant's failure
17 to provide complaint meal breaks to the PAGA Settlement Members when a break was missed,
18 short or late, (2) Defendant's failure to provide complaint rest breaks to the PAGA Settlement
19 Members when a break was missed, short or late, and (3) Defendant's failure to pay PAGA
20 Settlement Members all minimum or overtime wages due.

21 11. Here, a number of defenses asserted by Defendant presented serious threats to the
22 claims of the Plaintiff and the PAGA Settlement Members. Defendant asserted that the
23 employment practices complied with all applicable Labor Laws.

24 12. Most importantly and relevant to this case, Defendant argued that the Supreme
25 Court decision in *Brinker v. Superior Court*, 53 Cal.4th 1004 (2012), weakened, if not eliminated,
26 Plaintiff's claims, on liability, value, and discretion with respect to the PAGA penalties, as to the
27 meal and rest period claims. A major component of the penalties alleged to have been owed by
28

⁵ Assuming 901 pay periods.

1 Defendant are attributed to non-compliant meal and rest breaks. Before and during the mediation,
2 Defendant aggressively argued that Defendant's policies and culture afforded the PAGA
3 Settlement Members an opportunity to take timely meal and rest breaks, and that employees like
4 the Plaintiff *chose* not to take compliant breaks. Specifically, Defendant's written policies
5 encouraged PAGA Settlement Members to take meal periods and rest breaks according to
6 schedules compliant with the California Labor Code. The policy further *required* employees who
7 felt they were not provided an opportunity to take a meal break to their supervisor immediately.
8 Defendant argued, therefore, that under the *Brinker* decision it has no liability for the missed
9 breaks whatsoever. Defendant argued that it adopted and strictly enforced lawful policies and
10 afforded Plaintiff and the PAGA Settlement Members compliant meal and rest breaks. Because
11 Plaintiff's claims were largely based on the missed meal and rest breaks, and because Defendant's
12 policies were, indeed, compliant, this presented a very real concern for Plaintiff. If successful, this
13 defense could eliminate or substantially reduce any recovery under PAGA. While Plaintiff
14 believes that this defense, and others, could be overcome, Defendant maintains these defenses
15 have merit and therefore present a serious risk to recovery of penalties.

16 13. Accordingly, Defendant disputes and denies Plaintiff's allegations and claims
17 asserted in the operative complaint which are resolved by the Settlement Agreement. Defendant
18 asserted additional defenses to the PAGA claim, not only as to liability but also as to the amount
19 of the penalties. Defendant could argue that no penalties prior to the PAGA notification should be
20 awarded because the violations were not intentional, and at least one Court has so ruled. In
21 addition, Defendant argued that any Court would substantially reduce the PAGA penalty awards
22 in light of decisions like *Carrington*. These defenses present a significant risk to the PAGA claim
23 and the potential that some or all of the PAGA penalties sought may not be awarded. Given
24 Defendant's potential defenses to the violations at issue, the risks and costs of continued litigation,
25 Plaintiff and their attorneys believe that the PAGA Settlement Sum is fair and reasonable.

26 14. Plaintiff's Counsel have significant experience litigating wage and hour claims
27 including claims for PAGA penalties, and the PAGA Settlement Sum here is similar to
28 settlements that courts have approved. The PAGA Settlement Sum was negotiated by experienced

1 counsel at arm's length with the assistance of an experienced and reputable mediator, Hon.
2 William C. Pate (Ret.).

3 15. As set forth in the accompanying proof of service, the LWDA has been provided
4 notice of this motion and the PAGA settlement (See also Exhibit #5). The decision of LWDA to
5 accept the PAGA settlement and not oppose or object to this motion should be given considerable
6 weight. This is not a situation where the Court needs to be concerned about the rights of absent
7 employees as in a class settlement, as this PAGA-only settlement does not release the individual
8 claims of absent employees, and the LWDA is a sophisticated government entity that is more than
9 able to look out for its own rights.

10 16. The payment of attorneys' fees and costs to Plaintiff's Counsel under the
11 Agreement is supported by several factors. First, the requested fees are justified by the result
12 achieved. PAGA Counsel's diligent and efficient litigation of this action resulted in the creation of
13 an ascertainable common fund of \$80,000.00 that will substantially benefit the state of California
14 and the PAGA Settlement Members. PAGA Counsel seek approval of an award of attorneys' fees
15 in the amount of \$26,666.67 representing 1/3 of the common fund. PAGA Counsel have also each
16 provided information about the tasks that the two law firms performed on this case. PAGA
17 Counsel's request for attorneys' fees in the amount of 1/3 of the monetary common fund is
18 consistent with the amount awarded in other cases. Under *Laffitte v. Robert Half Int'l Inc.*, 1
19 Cal.5th 480, 504 (2016), the Court need not undertake any lodestar cross-check where, as here,
20 the percentage of the common fund sought equates to 1/3 of the common fund obtained.

21 17. Under the Settlement Agreement, Plaintiff's Counsel will be recovering litigation
22 expenses in the total amount of \$5,220.04, which represents the combined amount of costs that
23 were incurred by Plaintiff's Counsel, and which is less than the \$15,000 allocated in the
24 Agreement. The litigation expenses incurred by Zakay Law Group, APC and JCL Law Firm, APC
25 were in the amount of \$5,220.04, were all reasonably necessary to the litigation, and are detailed
26 in Exhibit #6 attached hereto.

27 18. As detailed in billing statements available at the request of the court, Zakay Law
28 Group, APC and JCL Law Firm, APC's current lodestar is \$53,772.50 for more than 143.02 hours

1 of work. The firms have worked on this action for over 17 months. In addition, there will be
2 additional lodestar still to be incurred to complete the settlement.

3 Experience and Qualifications

4 19. I have represented thousands of employees in a variety of legal matters, including
5 PAGA lawsuits, class actions and complex litigation cases. Zakay Law Group APC's practice is
6 devoted almost entirely to the prosecution of wage and hour class action and PAGA action
7 matters. I have successfully prosecuted and obtained significant recoveries in numerous class
8 action lawsuits and other lawsuits involving complex issues of law and fact. A true and correct
9 copy of the resume of Zakay Law Group, APC is attached hereto as Exhibit #7.

10 20. My credentials are reflected in the Zakay Law Group, APC firm resume, a true
11 and correct copy of which is attached hereto as Exhibit #7. Some of the major cases my firm has
12 undertaken are also set forth in Exhibit #7. I have had extensive representative and class litigation
13 experience, much of it in the area of representative PAGA actions, employment class actions,
14 unfair business practices and other complex litigation. I have litigated similar wage and hour class
15 action cases against other employers on behalf of employees. It is this level of experience which
16 enabled the firm to undertake the instant matter and to successfully combat the resources of the
17 defendant and its capable and experienced counsel. On account of the concerted and dedicated
18 effort this case required in order to properly handle and prosecute, I was precluded from taking
19 other cases, and in fact, had to turn away other potential fee generating cases.

20 21. My hourly rate for this case is \$500 per hour. My rate is in line with the prevailing
21 rates of attorneys in the local legal community for similar work and, if this were a commercial
22 matter, these are the charges that would be made and presented to the client. The rates charged by
23 my firm are in line with the prevailing rates of attorneys in the local legal community for similar
24 work and, if this were a commercial matter, these are the charges that would be made and
25 presented to the client. These hourly rates have been approved by Court's throughout California,
26 including the Courts in the Superior Court of California. Finally, the reasonableness of my hourly
27 rates is further confirmed by comparing this rate with the rates of comparable counsel practicing
28 complex and class litigation as detailed in the National Law Journal Billing Survey. See e.g. *Zest*

1 *IP Holdings, LLC v. Implant Direct MFG., LLC*, 2014 U.S. Dist. LEXIS 167563 (S.D. Cal. 2014)
2 (finding that “Mayer Brown's \$775 average billing rate for partners” and “Mayer Brown's \$543
3 average associate billing rate” are reasonable rates when compared within 21 other firms
4 practicing in the Southern District of California.) This survey is useful to show that Class
5 Counsel’s rates are in line with the comparable rates of the defense counsel that opposes these
6 types of class claims, such as Mayer Brown. In another example, Sheppard Mullin Richter &
7 Hampton, who is opposing counsel in many cases prosecuted by Class Counsel charges rates as
8 high as \$875 for partners and \$535 for associates. Similarly, Paul Hastings, another opposing
9 counsel in these types of cases, charges between \$900 and \$750 for partners and \$755 and \$335
10 for associates. Thus, the rates charged by Plaintiff’s Counsel for comparable work are less than
11 these examples, and are therefore undoubtedly reasonable.

12 Additional Issues

13 22. **National Change of Address** – The Settlement Administrator is required to
14 perform a National Change of Address search on any check returned by the U.S. Postal Service as
15 non-deliverable, and re-mail the check to the Aggrieved Employee’s new address under paragraph
16 6.03(a)(2) of the Settlement Agreement.

17 23. **Information Received** – In this case, Plaintiff received all of the information
18 needed to evaluate the claims being settled. The following is a summary of the relevant
19 documents received, reviewed and analyzed by Plaintiff in order to evaluate the claims:

- 20 a. Significant sample data showing the employees, their employment dates, their
21 time sheets, hourly rates, and their wages.
- 22 b. Significant sample data concerning recorded meal periods.
- 23 c. Defendant’s wage and hour policies for the relevant time period.
- 24 d. Samples of wage statements provided by Defendant to employees.
- 25 e. Significant sample payroll data.

26 24. **Valuation of Penalties**– Plaintiff estimates that Defendant was subject to
27 maximum liability for PAGA penalties in the amount of \$1,553,100, \$176,700 for minimum wage
28 violations, \$88,350 for unpaid wages, \$874,750 for wage statement violations, \$176,700 for rest

1 break violations, \$176,700 for meal break violations, \$1,700 for waiting time violations, and
2 \$58,200 for suitable seating violations. Plaintiff's model assumed a violation for every single pay
3 period for every single employee allowable pursuant to the California Labor Code, which Plaintiff
4 recognizes would be extremely hard to prove given Defendant's defenses to this Action.

5 25. PAGA penalty calculations are highly variable. Plaintiff's Counsel is unaware of
6 any PAGA judgment in which substantial PAGA penalties were awarded at the full statutory rate,
7 rather, the PAGA judgments have typically decreased the amount of the per violation penalty to a
8 fraction of the statutory amount. Here, some of the PAGA penalty amounts were likely not
9 awardable at the maximum rate given the defenses presented by Defendant. In addition to the
10 defenses presented by Defendant, as detailed above, there is another basis for concluding that the
11 settlement in this case is reasonable even with PAGA penalties in this amount. Specifically,
12 PAGA penalty claims are routinely settled at a small fraction of the potential penalties. For
13 example, Judge Nelson in *Price v. Uber Technologies*, (Los Angeles Superior Court case no.
14 BC554512), recently approved a PAGA settlement of \$7.75 million for 1.5 million drivers where
15 the maximum PAGA liability was \$151 billion. Thus, the PAGA penalties were settled for
16 0.005% of the PAGA liability. Notably, this was the largest PAGA settlement in the 15-year
17 history of PAGA. So while PAGA penalty figures may be inflated to significant numbers, realistic
18 settlements of PAGA claims result in a settlement amount of less than 1% of the PAGA liability.
19 Here, the settlement represents approximately 5.1% of the PAGA liability.

20 26. Scope of the Release. The release is limited to PAGA penalties predicated on the
21 claims actually asserted in the operative complaint and/or in the notice to the LWDA. A copy of
22 the notice to the LWDA is attached hereto as Exhibit #5.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct. Executed this 8th day of September 2021, at San Diego, California.

25
26 By: 
27 Shani O. Zakay
28

EXHIBIT 1

**PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE SECTION 2698 ET SEQ.)
SETTLEMENT AGREEMENT AND LIMITED RELEASE**

***Jonathan Khodra, et al. v. JHK Hospitality, LLC*
(Los Angeles County Superior Court, Case Number 20STCV15655)**

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Private Attorneys General Act (Labor Code section 2698 *et seq.*) (“PAGA”) Settlement Agreement and Limited Release (“Agreement”).

This Agreement is made by and between Plaintiff Jonathan Khodra (“Plaintiff”), for himself and in his capacity as a representative of the State of California on behalf of other aggrieved employees, and Defendant JHK Hospitality, LLC, (“Defendant”). This Agreement shall be effective upon the last date upon which it is signed by the Parties.

The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and concluded by this Agreement, which is intended to effect and complete settlement of this matter.

Article I.

Definitions.

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- i. “Action” shall mean the civil action entitled *Jonathan Khodra, et al. v. JHK Hospitality, LLC*, filed in the Superior Court for the County of Los Angeles on or about April 22, 2020, designated as Case No. 20STCV15655.
- ii. “Agreement,” or “Settlement Agreement,” means this Private Attorneys General Act (Labor Code section 2698 *et seq.*) Settlement Agreement and Limited Release.
- iii. “Aggrieved Employee(s)” means all current and former hourly or non-exempt employees employed by Defendant in California between February 12, 2019 and April 30, 2021.
- iv. “Complaint” means Plaintiff’s Complaint filed in Los Angeles County Superior Court on April 22, 2020, which is the operative Complaint in this Action.
- v. “Court” means the Superior Court for the State of California, County of Los Angeles.
- vi. “Defendant” means JHK Hospitality, LLC.
- vii. “Defendant’s Counsel” or “Counsel for Defendant” is:

Sang I. Lee
Law Offices of Lee & Park
8383 Wilshire Blvd., Suite 935
Beverly Hills, CA 90211

- viii. “Effective Date” shall mean the date the Court signs an order finally approving the settlement.
- ix. “Fee Amount” is the amount in fees Plaintiff’s Counsel is free to request that the Court award them up to thirty-three and one-third percent (33 1/3%) of the PAGA Settlement Amount, per Section 4.01 as compensation for their attorneys’ fees.
- x. “Cost Amount” is the total amount of litigation costs incurred by Plaintiff’s counsel in connection with the Action, including filing fees, mediation expenses and fees, travel and hotel costs, etc., up to a maximum of \$15,000 which shall be paid from the PAGA Settlement Amount as reimbursement of litigation costs.
- xi. “Individual PAGA Payment” is the amount in Labor Code section 2699 penalties to be paid to Aggrieved Employees, which will be 25% of the Net PAGA Payment, unless the Court determines otherwise.
- xii. “LWDA” refers to the California Labor & Workforce Development Agency.
- xiii. “LWDA Payment” means the 75% share of the Net PAGA Payment paid to the LWDA pursuant to Labor Code Section 2699(i).
- xiv. “Net PAGA Payment” means the portion of the Settlement Sum available for distribution between Aggrieved Employees and the LWDA pursuant to Labor Code section 2699(i), after deduction of the Settlement Administration Fee, Plaintiff’s Counsel’s Fee Amount and Plaintiff’s Counsels’ Cost Amount.
- xv. “Notice of PAGA Settlement” means the Notice of PAGA Settlement (attached hereto as Exhibit A) the Settlement Administrator shall mail, along with each Individual PAGA Payment, to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each Aggrieved Employee with directions to the Postmaster to forward the Notice and return all undeliverable Notices to the Settlement Administrator.
- xvi. “PAGA” refers to the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.*
- xvii. “PAGA Period” means the time period from February 12, 2019 to April 30, 2021.
- xviii. “Parties” refers to Plaintiff and Defendant.
- xix. “Qualifying Pay Period” means pay periods worked by Aggrieved Employees during the PAGA Period. The calculation of an Aggrieved Employees’ pay periods and a

determination as to whether an Aggrieved Employee was actively employed in California in a particular pay period shall be construed from Defendant's records.

- xx. "QSF" means a Qualified Settlement Fund set up by the Settlement Administrator for the benefit of the Aggrieved Employees and from which the payments under this Agreement shall be made. Any amounts Defendant has agreed to pay under this Agreement shall remain the property of Defendant until the payments required under the Agreement are made.
- xxi. "Plaintiff" refers to Jonathan Khodra individually and in his capacity as a representative of the State of California on behalf of other aggrieved employees.
- xxii. "Plaintiff's Counsel" are as follows:

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San Diego, CA 92110

Shani O. Zakay
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San Diego, CA 92110

- xxiii. "Released Claims" means: any and all claims for civil penalties under PAGA arising during the PAGA Period, based on the facts alleged in the operative complaint at the time of approval by Plaintiff in the Action and Plaintiff's notice letter to the LWDA, and any resulting claim for attorneys' fees and costs under PAGA, which occurred during the PAGA Period.
- xxiv. "Released Parties" means JHK Hospitality, LLC, and any of their former, present and future owners, parents, affiliates, and subsidiaries,.
- xxv. "Claim Amount" means an individual Aggrieved Employees' allocation of the Net PAGA Payment.
- xxvi. "Settlement Administrator" means and refers to Simpluris, the third-party professional administrator, jointly selected by the Parties and/or appointed by the Court to administer the Agreement.
- xxvii. "Settlement Administration Fee" means the fees and expenses reasonably incurred by the Settlement Administrator as a result of the procedures and processes expressly required by this Agreement, and shall include all costs of administering the Agreement, including, but not limited to, all tax document preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees associated with preparing, issuing and mailing any and all notices and other correspondence to Aggrieved Employees; all costs and fees associated with communicating with Aggrieved Employees, Plaintiff's Counsel, and Defendant's Counsel; all costs and fees associated with computing,

processing, reviewing, and paying the Claim Amounts, and resolving disputes; all costs and fees associated with calculating tax withholdings and payroll taxes, if any, making related payment to federal and state tax authorities, if any, and issuing tax forms relating to payments made under the Agreement; all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course of administering Claim Amounts; and any other costs and fees incurred and/or charged by the Settlement Administrator in connection with the execution of its duties under this Agreement. Based on the information presently and reasonably available, the Parties stipulate that Settlement Administration Fees shall be up to \$3,000. Should any actual Settlement Administration Fees turn out to be less than the projected amount, the Parties agree that the savings will be allocated to the Net PAGA Payment, to be distributed to the Aggrieved Employees in proportion to their respective number of Qualifying Pay Periods.

xxviii. “Final Approval Date” means the date the Court enters a signed order granting approval of the Agreement.

xxix. “Settlement Sum” means the Eighty Thousand Dollars and Zero Cents (\$80,000.00) Defendant have agreed to pay pursuant to Section 5.01, below.

xxx. “Individual Settlement Payment” means the payment by Defendant to Plaintiff in accordance with the separate individual settlement agreement entered into between the Parties and attached hereto as Exhibit B.

Article II.

Background.

(a) On April 22, 2020, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles. Plaintiff asserted claims that Defendant:

1. Violated California Business and Professions Code § 17200, *et seq.*;
2. Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1
3. Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*;
4. Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order
5. Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
6. Failed to reimburse employees for required business expenses in violation of California Labor Code § 2802
7. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226
8. Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;

9. Failed to provide seating in violation of California Labor Code § 1198 and California Code of Regulations, Title 8, Section 1 1070(14); and
 10. Violation of the Private Attorneys General Act in violation of Labor Code §§ 2698, *et seq.*
- (b) On October 20, 2020, Plaintiff filed a First Amended Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles, asserting a single cause of action for Violations of the California Private Attorneys General Act at Labor Code §§ 2698, *et seq.*
- (c) On April 30, 2021, the Parties engaged in mediation with Hon. William C. Pate (Ret.), a respected jurist and experienced wage and hour and PAGA actions mediator. At the conclusion of the full day mediation, the Parties reached an agreement for resolution. The Parties' agreement was memorialized in a Memorandum of Understanding (MOU), which this Agreement now replaces. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.
- (d) The Parties agree that the above-described investigation and evaluation, as well as discovery and the information exchanged to date, are more than sufficient to assess the merits of the respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Plaintiff's Counsel, Defendant, and Defendant's Counsel have concluded that it is desirable that the PAGA claims asserted in the Action be settled in a manner and upon such terms and conditions set forth herein in order to avoid further expense, inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the Parties potentially face. Plaintiff, Plaintiff's Counsel, Defendant, and Defendant's Counsel are of the opinion that the Agreement for the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and circumstances.
- (e) This Agreement contemplates the (a) entry of an order by the Court approving the payment allocated for settlement of the Settlement Sum provided herein; (b) an order entering PAGA Judgment in the Action; and (c) all Parties bearing their respective fees and costs except as expressly provided in this Agreement. These terms are material provisions of this Agreement.

Defendant denies each and every claim and contention alleged in the Action, and have always maintained that they never engaged in any unlawful acts regarding any of the matters alleged in the Action.

Article III.

Non-Admission of Liability

Section 3.01 Based on the factual and legal issues involved, the expense and time necessary to prosecute the Action through trial, the risks, uncertainty and costs of further prosecution, the difficulty of proof necessary to establish manageability for purposes of liability, and the relative benefits to the PAGA Aggrieved Employees of an expeditious resolution to the Action, the Parties

have concluded that the terms set forth in this Settlement are fair, reasonable, adequate and in the best interests of the PAGA Aggrieved Employees.

Section 3.02 Defendant has denied and continues to deny all claims as to liability, damages, liquidated damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. It is understood and agreed by the Parties that this is a compromise and settlement of all disputed claims and that the promises and payment in consideration of this Agreement shall not be construed to be an admission of any liability or obligation whatsoever by Defendant or Released Parties to any other party or to any other person whomsoever. Defendant has agreed to resolve the asserted PAGA claims in the Action via this Agreement, but to the extent this Agreement is deemed void or the Final Approval Date does not occur, Defendant does not waive, and is expressly reserving, all rights to challenge all such claims and allegations in the Action upon all procedural and factual grounds, including, without limitation, the ability to challenge representative or collective treatment on any grounds, as well as to assert any and all other potential defenses or privileges.

Section 3.03 This Agreement and all associated exhibits or attachments are made for the sole purpose of settling the PAGA claims asserted in the Action. This Agreement and the settlement it evidences are made in compromise of disputed claims. The Parties enter into this Agreement and associated settlement on a conditional basis in order for the Court to evaluate and approve the settlement. If the Court does not enter an order approving the Agreement, this Agreement shall be deemed null and void; it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable.

Article IV.

Scope of the Aggrieved Employees.

Section 4.01 The scope of individuals encompassed under the Agreement, who are entitled to all benefits as authorized under the Agreement and subject to all obligations and duties required under the Agreement, shall include all Aggrieved Employees as defined in Section 1.01.

Section 4.02 Aggrieved Employees entitled to recover under this Agreement will include only those individuals who are identified in Defendant's records as having worked as an Aggrieved Employee.

Article V.

Terms of Agreement.

Section 5.01 Settlement Sum.

Defendant agrees to pay **Eighty Thousand Dollars and Zero Cents (\$80,000.00)** as a full, complete and final settlement of the Action. This sum includes the following: (i) any payment to the LWDA; (ii) any payment to Aggrieved Employees; (iii) the payment of fees and costs to

Plaintiff's counsel, as approved by the Court; and (iv) all fees, costs, and expenses of administration of this Agreement. This sum excludes the Individual Settlement Payment to Plaintiff.

Section 5.02 Fee Amount.

Plaintiff's Counsel will apply to the Court for an award of attorneys' fees not to exceed thirty-three and one-third percent (33 1/3%), of the Settlement Sum, and Plaintiff's Counsel will also seek reimbursement of reasonable litigation costs not to exceed \$15,000 (attorneys' fees and reasonable litigation costs are referred to as "Plaintiff's Counsel Payment"). Defendant will not oppose or object to Plaintiff's Counsel's application for Plaintiff's Counsel Payment. In the event that the Court does not approve an award of attorneys' fees equal to the requested amount, or the Court alters the payment methodology described herein, Plaintiff's Counsel agrees not to seek additional review of the Court's decision regarding attorneys' fees, and this Settlement will be enforceable. Any reduction in this payment by the Court is not grounds to void this Agreement and any funds requested but not awarded as attorneys' fees or costs will be distributed to the LWDA and Aggrieved Employees pursuant to the distribution terms of the Agreement or any terms imposed by the Court. Plaintiff's Counsel Payment shall be allocated between Plaintiff's Counsel as follows: JCL Law Firm, APC's share will be 50%, and Zakay Law Group ALPC's share will be 50%.

Section 5.03 Settlement Administration Fees and Costs.

Settlement administration shall be done by Simpluris, a qualified, third-party settlement administrator agreed to by the Parties and approved by the Court ("Settlement Administrator"). The Parties agree that the Settlement Administrative Fee shall be paid from the Settlement Sum. This includes all fees and costs for postage, envelopes, and computer searches to locate addresses; and expenses of the Settlement Administrator to implement and complete the settlement process according to the terms of this Settlement, to calculate payments to individual PAGA Aggrieved Employees, and cost associated with the escheatment process or an any uncashed or undeliverable settlement checks, to prepare any necessary tax documents for PAGA Settlement members, and any other related fees and costs (The "Settlement Administration Fee"). Any reductions by the Court or any unused amount shall revert to the Net PAGA Payment.

The Settlement Administrator shall establish a QSF pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement.

Section 5.04 PAGA Payment - Allocation.

The Net PAGA Payment shall represent Labor Code Section 2699 penalties, of which 75% of the payment will be paid to the LWDA as the LWDA Payment and 25% will be paid to Aggrieved Employees as Individual PAGA Payments, unless the Court determines otherwise. A reallocation of the settlement funds amongst PAGA claims directed by the Court shall not be a basis for either side to void the Agreement. Aggrieved Employees will be issued Form 1099 for their share of the PAGA payments. The Individual PAGA Payment for each Aggrieved Employee shall be based on the number of Qualifying Pay Periods that each Aggrieved Employee worked

during the PAGA Period as a percentage of the total Pay Periods worked by all Aggrieved Employees during the PAGA Period.

Section 5.05 Treatment of Residue and Cy Pres. For any portion of the Net Settlement Amount allocated to Aggrieved Employees that was not claimed by Aggrieved Employees by cashing their respective settlement checks before the deadline to do so, that remaining amount shall be paid to the State Controller's Office, Unclaimed Property Division in the name of the absent Aggrieved Employee. No portion of the Settlement Sum will revert to Defendants for any reason.

Article VI.

Approval and Implementation of Agreement.

Section 6.01 Cooperation.

The Parties will cooperate in obtaining through an unopposed motion, an Order from the Court approving the terms of this Agreement at the earliest possible date. The Parties agree to use their best efforts to expedite the preparation and submission of the Agreement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents reasonably necessary to be prepared or filed in order to obtain approval of this Agreement.

Section 6.02 Court Approval.

The Parties will seek to obtain the Court's approval of this Agreement by way of a motion to be filed by Plaintiff's counsel. At the time of mediation, Defendant provided an estimate to Plaintiff of 35 Aggrieved Employees and 900 Qualifying Pay Periods during the PAGA Period. In the event the number of Qualifying Pay Periods during the PAGA Period is more than 990 (*i.e.*, greater than 10% more than 900), then the Settlement Sum shall increase in proportion to the increase in Qualifying Pay Periods. The Court's approval of this Agreement shall be embodied in a written Order. Should the Court not grant approval of terms set forth in Section 5.01 of this Agreement, then the entirety of this Agreement shall be null and void.

After approval is granted, Defendant shall pay Plaintiff the Individual Settlement Payment in accordance with the separate individual settlement agreement entered into between the Parties and attached hereto as Exhibit B.

Section 6.03 Notice to Aggrieved Employees.

(a) Notice.

Notice shall be provided to the Aggrieved Employees in the following manner:

- (1) No later than Ten (10) business days after Effective Date, Defendant shall provide the Settlement Administrator with a list of all Aggrieved Employees ("Aggrieved Employees List"). The Aggrieved Employees List shall state the first name and last name in separate columns for each Aggrieved Employee, the last known home address

for each such Aggrieved Employee, each Aggrieved Employee's social security number, and each Aggrieved Employee's respective number of Qualifying Pay Periods employed by Defendant in California during the PAGA Period.

- (2) The Settlement Administrator shall conduct one National Change of Address ("NCOA") search for all Aggrieved Employees identified on the Aggrieved Employees List. No later than twenty-one (21) business days after its receipt of the information described in Section 6.03(a)(1) above, the Settlement Administrator shall mail the Notice of PAGA Settlement (attached hereto as Exhibit A) and the Payment as defined below in Section 6.04(b) to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each Aggrieved Employee with directions to the Postmaster to forward the Notice and Individual PAGA Payment and return all undeliverable Notices and Individual PAGA Payments to the Settlement Administrator. For each Notice and Individual PAGA Payment that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database.
- (3) All costs incurred by the Settlement Administrator in connection with the current settlement, whether foreseen or not, shall be paid out of the Settlement Sum.

Section 6.04 Settlement Payment And Administration Procedures.

(a) Settlement Sum

The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID number and calculate all settlement checks and withholdings required under the law based on the information that will be confidentially furnished by Defendant. There are no payroll deductions to be calculated under this Settlement, since no part of the Settlement will be classified as wages.

(b) Payment of Aggrieved Employee Payment.

Defendant shall provide the Settlement Administrator with a list of the names and addresses of the PAGA Aggrieved Employees, to be furnished within ten (10) business days after the Court issues an Order approving this Settlement. The contact information is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of contact information of the PAGA Aggrieved Employees. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Agreement. For purposes of distributing each Individual PAGA Payment, all distribution payments will be made according to the number of Qualifying Pay Periods each Aggrieved Employee was employed by Defendant in California during the PAGA Period (partial Qualifying Pay Periods will be counted as full Qualifying Pay Periods), with each Aggrieved Employee being entitled to a share of the Net PAGA Payment allocated to the Aggrieved Employees based upon the Aggrieved Employee's number of Qualifying Pay Periods employed with Defendant during the specified period as a

numerator and the total number of Qualifying Pay Periods all Aggrieved Employees were employed with Defendant in California during the PAGA Period as the denominator. Defendant's records shall be determinative for purposes of calculating the number of Qualifying Pay Periods worked and any payments to PAGA Aggrieved Employees.

The Individual PAGA Payments are considered penalties and will not be subject to local, state or federal tax withholdings. All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 reflecting this portion of the settlement.

The settlement checks issued to Aggrieved Employees shall remain valid for one hundred and twenty (120) calendar days after the date of issuance. After one hundred and twenty (120) calendar days of issuance, the checks shall be voided and funds from all undeposited checks shall be transmitted to the *cy pres* beneficiaries identified in Section 5.05. The Settlement Administrator shall deliver the *cy pres* funds within fourteen (14) calendar days after the check cashing deadline.

(c) Payment Schedule

Defendant shall pay the full Settlement Amount within thirty (30) business days of the Effective Date. Payment shall be distributed by the Settlement Administrator at the time the Notice of PAGA Settlement is mailed in accordance with Section 6.03(a). The Settlement Administrator will send the Individual Payment to the PAGA Aggrieved Employees by postmarked First Class U.S. Mail. Payments to the PAGA Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's counsel shall be made by the Settlement Administrator within twenty-one (21) business days of Defendant's funding of the Settlement Sum as described in this section.

(d) Uncashed Checks

To provide the best notice and delivery of Individual Payments practicable, any Individual Payment returned to the Settlement Administrator as non-delivered shall be sent by postmarked First Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding address is provided for an Individual Payment that is returned as non-deliverable, the Settlement Administrator shall use the best available technology accessible (i.e. skip tracing, address verification, etc.) to the Settlement Administrator or other mutually agreeable method to locate PAGA Aggrieved Employees and will then mail the Individual Payment to the address identified by the best available technology accessible to the Settlement Administrator or other mutually agreeable method. If no current address is located, the Individual Payment for that individual will be deemed undeliverable. If any PAGA Aggrieved Employees cannot be located within two attempts at mailings by the Settlement Administrator, the Individual Payment for that individual will be deemed undeliverable.

The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Individual Payment to the PAGA Aggrieved Employees, and a list of PAGA Aggrieved Employees who did not receive the Individual Payment due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing.

All settlement checks will remain valid and negotiable for 120 days from the date of their mailing by the Settlement Administrator. After 120 days from the date of their mailing by the Settlement Administrator, any uncashed checks shall be paid to the checks shall be voided and funds from all undeposited checks shall be transmitted to the *cy pres* beneficiaries identified in Section 5.05. The Settlement Administrator shall deliver the *cy pres* funds within fourteen (14) calendar days after the check cashing deadline.

No later than January 31 of the year following payment of their individual portion of the Settlement Sum, the Settlement Administrator will prepare and issue IRS Form 1099 to PAGA Aggrieved Employees who receive a payment.

Section 6.05 LWDA Notice.

Pursuant to California Labor Code section 2699(l), Plaintiff will provide a copy of this Agreement to the LWDA concurrently with the filing of the motion for settlement approval. Plaintiff will also file a declaration in support of his Motion for Settlement Approval confirming that he has submitted the Agreement to the LWDA in compliance with Labor Code section 2699(l). In addition, Plaintiff shall submit to the LWDA a copy of the Court's judgment and order approving the Agreement within ten (10) days after entry of the judgment or order.

Section 6.06 Submission of Notice of Satisfaction of Judgment.

Upon payment of the entire Settlement Sum by Defendant and distribution of the Settlement Sum by the Settlement Administrator in accordance with this Agreement, Plaintiff and Defendant will jointly submit a Notice of Satisfaction of Judgment.

Article VII.

Limitations On Use Of This Agreement.

Section 7.01 No Admission.

This Agreement and compliance with this Agreement shall not be construed as an admission by Defendant of any liability whatsoever, or as an admission by Defendant of any violations of Plaintiff's rights or the rights of any other alleged Aggrieved Employee, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaim any liability to Plaintiff or any other allegedly Aggrieved Employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract.

Section 7.02 Nullification.

- (a) If the Court should for any reason fail to approve this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

- (b) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. Material terms of this Agreement include: the definition of Aggrieved Employees (Section 1.01(iii)); the definition of Effective Date (Section 1.01(viii)); the definition of PAGA Period (Section 1.01(xvii)); the definition of Released Claims (Section 1.01(xxiii)); the definition of Released Parties (Section 1.01(xxiv)); the definition of Settlement Sum (Section 1.01(xxix)); the requirement for entry of an order by the Court approving this Agreement and entering PAGA Judgment as contemplated in Article II(i). The following terms are not material to this Agreement: the allocation of Fee Amount (Sections 1.01(ix) and 5.02); the amount of the Settlement Administration Fee (Section 1.01(xxvii)); the allocation within the Net PAGA payment (Section 5.04).

Article VIII.

Section 8.01 Limited Release and Wavier of Claims.

It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge disputes and claims alleged in the Action. Upon entry of the Order and Final Judgment approving payment of the PAGA penalties as described in this Agreement, and upon funding in full of the Settlement Sum by Defendant, Aggrieved Employees, and the State of California shall be bound by this Agreement and shall release the Released Claims.

Plaintiff and the State of California shall be deemed to have, and by operation of the Order and Final Judgment granting approval of this Agreement, shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims that arose during the PAGA Period. As a result of this release, Aggrieved Employees will be unable to bring a claim under, or recover in any other claim brought under, the California Private Attorneys General Act, California Labor Code § 2698 *et seq.*, for any violations of the Released Claims that took place during the PAGA Period.

Section 8.02 Tax Treatment and Tax Indemnification.

Aggrieved Employees will assume any tax obligations or consequences which may arise from this Settlement. Aggrieved Employees release any and all claims that they have or may have against Defendant for any claims, demands, deficiencies, levies, assessments, executions, judgments, penalties, taxes, indemnification, and any other recoveries related to any payments made under this Settlement Agreement or any compensation provided at any time by Defendant or any of the Released Parties.

If any state or federal taxing authority contacts, investigates, or pursues any action against any PAGA Aggrieved Employees for their individual share of taxes related to any payments made under this Agreement, each Aggrieved Employee shall be responsible for his/her own defense of and payment for any claim of unpaid taxes, interest, or penalties brought by any state or federal taxing authority for the Aggrieved Employee's share of any state or federal tax obligation. If an Aggrieved Employee has questions about any liability to any state or federal taxing authority, they

shall contact the Settlement Administrator. The Aggrieved Employees shall not contact Defendant, any of the Released Parties, or Defense Counsel.

Article IX.

Miscellaneous Provisions.

Section 9.01 Unalleged Claims

Neither Plaintiff nor Plaintiff's Counsel are aware of any: (a) unalleged claims in addition to, or different from, those which are finally and forever settled and released against the Released Parties by this Agreement; and (b) unalleged facts or legal theories upon which any claims or causes of action could be brought against any Released Parties, except such facts and theories specifically alleged in the operative Complaint in this Action. Plaintiff and Plaintiff's Counsel have no current intention of asserting any other claims against any of the Released Parties in any judicial or administrative forum. Plaintiff and Plaintiff's Counsel do not currently know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against any Released Parties. Notwithstanding, Plaintiff and Plaintiff's counsel are aware of Plaintiff's pending workers' compensation case where Plaintiff has obtained separate counsel and which claims have not been released pursuant to this Agreement.

Section 9.02 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

Section 9.03 Parties' Authority.

The signatories hereto represent that they are fully authorized to enter into this Agreement.

Section 9.04 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by Plaintiff, Plaintiff's Counsel, Defendant and Defendant's Counsel who executed this Agreement and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 9.05 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Defendant's Counsel without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or

to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 9.06 No Modifications and Void *Ab Initio*.

This Agreement may not be changed, altered, or modified, except as provided for in this Agreement, in writing signed by the Parties hereto, and approved by the Court. If the Court does not enter an order granting approval of the Agreement, if the Court's approval of the settlement is reversed, if the Agreement is materially modified by the Court or on appellate review, or if the Effective Date does not occur, this Agreement shall be deemed Void *Ab Initio*. Void *Ab Initio* shall mean the Parties will be returned to the status quo prior to this Agreement being reach and it will be as if the Agreement was never entered into. If Void *Ab Initio*, the Agreement shall be of no force or effect whatsoever, it shall not be referred to or utilized for any purpose whatsoever, and the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable. A material modification shall have the same meaning as that term is used in California law regarding contracts. This Agreement may not be discharged except by performance in accordance with its terms

Section 9.07 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, and shall in all cases be shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto.

Section 9.08 Headings and Captions.

Paragraph titles or captions contained in the Agreement are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement, or any provision thereof.

Section 9.09 Entire Agreement.

This Agreement, including the Exhibits referred to herein, which form an integral part hereof, contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action.

Section 9.10 Joint Drafting Of Settlement Documents.

Plaintiff's Counsel and Defendant's Counsel have arrived at this Settlement as a result of a series of arm's-length negotiations, taking into account all relevant factors, present and potential. The Agreement has been drafted jointly by Plaintiff's Counsel and Defendant's Counsel; therefore, in any construction or interpretation of this Agreement, the same shall not be construed against any of the Parties.

Section 9.11 No Press Release Or Publicity Regarding The Terms Of The Settlement.

Plaintiff and Plaintiff's Counsel, as well as Defendant and Defendant's Counsel, agree that they will not issue any media or press release, initiate any contact with the media or the press, respond to any media or press inquiry, or have any communications with the media or the press about the fact, amount, or terms of this Settlement Agreement, except to (i) Aggrieved Employees, but only as shall be contractually required to effectuate the terms of the Settlement, and (ii) the Court, but only as necessary to obtain Court approval of the Settlement. However, for the limited purpose of allowing Plaintiff's Counsel to prove adequacy as class counsel in other actions, Plaintiff's Counsel may disclose the name of the Parties in this action and the venue/case number of this action (but not any other settlement details) for such purposes.

Section 9.12 Stay of Litigation and Court Filings

The Parties agree that the continuing litigation of this Action shall be stayed for all purposes from the date the Parties and their counsel signed the Memorandum of Understanding, except for purposes of seeking approval of the Settlement.

Section 9.13 Continuing Jurisdiction Of The Court.

Pursuant to California Code Of Civil Procedure section 664.6, the Parties agree that the Court shall retain jurisdiction over the Parties, and over this Settlement Agreement, in order to monitor and enforce compliance of this Settlement Agreement, and/or resolve any disputes over this Settlement Agreement or the administration of the benefits of this Settlement Agreement. The Parties further agree that the time within which to bring this action to trial under California Code of Civil Procedure section 583.310 shall be extended from the date of the signing of this agreement by all parties until entry of the final approval order and judgment, or if not entered, the date this agreement shall not longer be of any force or effect.

Section 9.14 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart by facsimile, electronic signature, or email, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

Section 9.15 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s) first to Hon. Judge Pate, and if Hon. Judge Pate is unable to resolve the dispute(s), then to the Court.

Section 9.16 Binding Effect of Agreement.

The Parties, by signing this Agreement, are bound by the terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the terms of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, Claims Administrators, successors, and assigns.

Section 9.17 Attorney's Fees.

If an action is brought to recover damages, equitable relief, or both, or to interpret or enforce any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees as part of its costs from the other party.

IN WITNESS WHEREOF, the Parties have executed this Private Attorney General Act Settlement Agreement and Limited Release on the date set forth.

APPROVED AND ACCEPTED.

Dated: 6/18/2021, 2021

By _____
Jonathan Khodra

DocuSigned by:

Jonathan Khodra

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Dated: _____, 2021

By _____
JHK Hospitality, LLC

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: 6/19/2021, 2021

JCL LAW FIRM, APC

By _____
Jean-Claude Lapuyade
Attorneys for Plaintiff

DocuSigned by:

Jean-Claude Lapuyade

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Dated: 6/19/2021, 2021

ZAKAY LAW GROUP, APC

By _____
Shani O. Zakay
Attorney for Plaintiff

DocuSigned by:

Shani O. Zakay

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Section 9.16 Binding Effect of Agreement.

The Parties, by signing this Agreement, are bound by the terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the terms of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, Claims Administrators, successors, and assigns.

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If an action is brought to recover damages, equitable relief, or both, or to interpret or enforce any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees as part of its costs from the other party.

IN WITNESS WHEREOF, the Parties have executed this Private Attorney General Act Settlement Agreement and Limited Release on the date set forth.

APPROVED AND ACCEPTED.

Dated: _____, 2021

By _____
Jonathan Khodra

Dated: June 10, 2021

By _____
JHK Hospitality, LLC

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: _____, 2021

JCL LAW FIRM, APC

By _____
Jean-Claude Lapuyade
Attorneys for Plaintiff

Dated: _____, 2021

ZAKAY LAW GROUP, APC

By _____
Shani O. Zakay
Attorney for Plaintiff

Dated: June 12, 2021

LAW OFFICES OF LEE & PARK

By 

Sang I. Lee

Attorneys for Defendant

EXHIBIT A

NOTICE OF SETTLED REPRESENTATIVE ACTION

Jonathan Khodra, et al. v. JHK Hospitality, LLC (Los Angeles County Superior Court, Case No. 20STCV15655)

P.O. Box

Telephone:

«Barcode»

«BarcodeString»

SIMID «SIMID»

«FirstName» «LastName»

«Address1» «Address2»

«City» «State» «Zip»

You are receiving this notice and check as a result of a recent lawsuit brought on a representative basis under the Private Attorneys General Act, Labor Code § 2698 et seq. (“PAGA”) (“the Action”), Jonathan Khodra v. JHK Hospitality, LLC in Los Angeles County Superior Court, Case Number 20STCV15655 that has been settled. The plaintiff in the lawsuit is Jonathan Khodra (“Plaintiff”) and the defendant is JHK Hospitality, LLC (“Defendant”). According to Defendant’s records, you are considered an “Aggrieved Employee,” meaning that you were employed by JHK Hospitality, LLC as an hourly, non-exempt employee at any time during the time period from February 12, 2019 and April 30, 2021.

This notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations raised in the Action or the merits of the claims or defenses asserted. In fact, the Court has made no determination as to whether the claims alleged by Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has the Court decided in favor of Plaintiff or Defendant. Instead, both parties agreed to resolve the Action with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, the parties avoid the risks and costs associated with trial.

Defendant views this settlement as a compromise, to which it has agreed in order to avoid the risks and costs associated with litigation. Defendant is not admitting to any allegations or wrongdoing in this case, and in fact expressly denies that any of its practices at issue in this lawsuit were or are unlawful.

Each Aggrieved Employee is releasing Released Claims against Defendant. The “Released Claims” are any and all claims for civil penalties under PAGA arising during the period of February 12, 2019 to April 30, 2021 (“PAGA Period”), based on the facts alleged in the operative complaint at the time of approval by Plaintiff in the Action and Plaintiff’s notice letter to the LWDA, and any resulting claim for attorneys’ fees and costs under PAGA, which occurred during the PAGA Period.

By Order dated [REDACTED], 2021, the Superior Court approved the Settlement of the PAGA claims. According to Defendant’s records, you are an Aggrieved Employee and therefore entitled to a share of the PAGA settlement based upon the Court approved allocation. Enclosed with this Notice is your check for your share, and there is no action required of you in this matter. The settlement check shall remain valid for 120 days.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties and will be reported on an IRS Form 1099. You should rely on your own tax advisors as to the tax consequences of your Individual PAGA Payment. Neither Counsel for Plaintiff, Counsel for Defendant, nor the Settlement Administrator may legally provide you with advice regarding the tax implications of the receipt of this settlement payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended). Enclosed are the appropriate tax forms pertaining to your payment.

Do not call or write the Court or Office of the Clerk to ask questions about the settlement or about the claims process. If you have any questions, you may call or write to [REDACTED] (the Settlement Administrator) using the contact information at the top of this correspondence. Alternatively, if you wish to find out more about the settlement, you may refer to the pleadings and other papers filed in the Action, which are available at the Los Angeles County Superior Court.

EXHIBIT B

SETTLEMENT AND RELEASE

1. **SETTLEMENT AND RELEASE:** This writing reflects an agreement (the “Agreement”) for settlement and release between JHK Hospitality, LLC (“Defendant”), and Jonathan Khodra (“Plaintiff”), jointly (“the Parties”) and the promises following are full and mutual consideration for the Agreement.

2. **PAGA SETTLEMENT AGREEMENT:** The Parties have separately agreed to a settlement of the claims arising under Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.* contained in Los Angeles County Superior Court Case No. 20STCV15655 (the “PAGA Action”), in which Plaintiff is a named plaintiff and PAGA representative. That separate settlement (the “PAGA Settlement”) is subject to Court approval, and this Agreement is conditioned upon Court approval of that separate settlement.

3. **PROMISES OF DEFENDANT:**

a. **Payment to Plaintiff:** Defendant shall pay to Plaintiff a total of \$15,000.00 (the “Settlement Sum”) in two separate checks fifteen (15) days after the Effective Date of this Agreement. The first check will be made payable to the Zakay Law Group, APC Client Trust Account in the amount of \$5,000.00, and for tax purposes, tax Form 1099 will be issued to Zakay Law Group, APC. The second check shall be made payable to Jonathan Khodra in the amount of \$2,000.00, less applicable withholdings and payroll deductions, and forms W-2 shall be issued to Jonathan Khodra, as appropriate. The third check shall be made payable to Jonathan Khodra in the amount of \$8,000.00, and forms 1099 shall be issued to Jonathan Khodra, as appropriate. For tax purposes, the Settlement Sum shall be treated as 20% wages and 80% non-economic damages, penalties, and interest. It is understood and agreed that Defendant is not liable for the apportionment of any of the Settlement Sum as between Plaintiff and any other person or entity. All payments are contingent upon court approval of the PAGA Settlement, as an express and material provision and condition precedent of this executed Agreement. Upon execution of this Agreement by the Parties, Plaintiff’s counsel shall file a motion to approve the PAGA Settlement. Defendant’s obligation to pay the Settlement Sum is contingent upon and does not arise unless, and after the Court first approves the PAGA Settlement.

b. **Response to Solicitation for Employment:** In response to solicitation for employment references, or in response to any outside inquiry, Defendant shall provide only Plaintiff’s dates of employment and job classification.

4. **PROMISES OF PLAINTIFF:**

a. **Releases:** Plaintiff, on his own behalf and on behalf of his predecessors, heirs, successors and assigns, hereby releases and forever discharges Defendant and each its current and former agents, employees, representatives, officers, directors, members, shareholders, attorneys, accountants, insurers, advisors, partners, partnerships, divisions, parents, subsidiaries, assigns, successors, heirs, predecessors, , joint ventures, commonly controlled corporations, and affiliated persons, companies, and organizations (the “Released Parties”) from

any and all liabilities, causes of action, charges, complaints, suits, claims, demands, obligations, costs, losses, damages, injuries, rights, judgments, attorneys' fees, expenses, bonds, liens, bills, penalties, fines, and all other legal responsibilities of any form whatsoever, whether known or unknown, whether suspected or unsuspected, arising on or before the date Plaintiff signs this Agreement, to the fullest extent permitted by law (the "Released Claims").

b. **Waiver of Unknown Claims:** Plaintiff expressly waives and relinquishes any rights and benefits pursuant to California Civil Code § 1542 with respect to the Released Claims herein, and does so understanding and acknowledging the significance and consequence of such specific waiver of Section 1542 that reads:

"Section 1542. [Certain claims not affected by General Release.] "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known to him or her, would have materially affected his or her settlement with the debtor or released party."

c. **Age Discrimination in Employment Act:** The Released Claims include any claim by Plaintiff under the Age Discrimination in Employment Act of 1967, as amended by the Older Workers Benefit Protection Act of 1990. In order to effectuate a valid release of that claim, Plaintiff acknowledges that he has been advised by this writing that: (a) his waiver and release of Plaintiff's Released Claims does not apply to any rights or claims that may arise after the day he signs this Agreement; (b) he should consult with an attorney prior to executing this Agreement; (c) he has twenty-one (21) days to consider this Agreement (although he may by his own choice execute this Agreement earlier); (d) he has seven (7) days following the execution of this Agreement to revoke the Agreement; and (e) this Agreement shall not be effective earlier than the next business day following the expiration of this 7-day revocation period. Plaintiff may revoke this Agreement only by giving the Defendant formal, written notice of his revocation of this Agreement, addressed to: Sang I. Lee, Esq., Law Offices of Lee & Park, 8383 Wilshire Blvd., Suite 510, Beverly Hills, CA 90211, to be received by the Defendant by the close of business on the seventh day following the Plaintiff's execution of this Agreement.

d. **No Assignment:** Plaintiff will make no assignment of any Released Actions, and Plaintiff represents that no such assignment has been made.

e. **Covenant Not to Sue:** With the exception of the PAGA Action, Plaintiff agrees not to sue or otherwise initiate, prosecute, or participate in any kind of legal proceeding against any Released Party, in any forum, asserting any Released Claim. Plaintiff agrees that Defendant may use this Agreement to bar him from taking any action inconsistent with this covenant, including but not limited to obtaining appropriate judicial relief.

f. **No Current or Past Work Related Injury:** Plaintiff represents and warrants that Plaintiff has no knowledge of any work-related injury or illness incurred while working for Defendant except those for which claims were made prior to the date of this Agreement.

g. **Non-Disparagement:** Plaintiff agrees to do nothing to disparage Defendant and/or any of the Released Parties in any communications whatsoever after the date of this Agreement.

h. **Confidentiality:** Except as necessary as part of Plaintiff's efforts to seek approval of the PAGA Settlement with the Court, neither Plaintiff nor Plaintiff's attorneys shall disclose, to any person or entity, including but not limited to any print, broadcasting, electronic, or any other media, the existence of this Agreement, any of the terms or provisions of this Agreement, or any of the facts and circumstances concerning the Released Claims; however, that Plaintiff shall not be prohibited from making such disclosures to any person who has a strict legal necessity to know, but shall specifically make best efforts to prevent those persons from repeating those disclosures to any other person. This confidentiality provision shall not prohibit Plaintiff from informing people that "the matter has been resolved." Should the Court require the review of this Agreement in order to approve the PAGA Settlement, Plaintiff agrees to cooperate with Defendant to protect the confidentiality of this Agreement to the greatest extent the Court will allow, such as by submitting it for review *in camera* only, filing it under seal, or other procedure which the Court may permit.

i. **Plaintiff Responsible for Tax Obligations:** Plaintiff and his attorneys hereby acknowledge that they are responsible for all tax obligations, if any, including but not limited to, all reporting and payment obligations which may arise as a consequence of this Agreement, with the exception of any employer payroll taxes owed by Defendant. Plaintiff acknowledges that he has not received any tax advice from Defendant, or their counsel, and has not relied on any tax advice from Defendant or their counsel.

5. **PROMISES OF PLAINTIFF AND DEFENDANT**

a. **No Admission of Wrongdoing:** Plaintiff and Defendant agree that this Agreement is not to be construed as an admission, by either party, of any wrongdoing, by either party. Defendant also does not admit to any liability or wrongdoing whatsoever with respect to the allegations in the PAGA Action. Defendant expressly denies any and all such liability and wrongdoing. This Agreement, and the terms herein, shall not be used or introduced for any purpose other than to enforce the terms contained herein, or as necessary to seek Court approval of the settlement of the PAGA Action.

6. **CONSTRUCTION OF THIS AGREEMENT:**

a. **Choice of Law:** This Agreement is to be construed pursuant to the laws of the State of California, including California law regarding choice of law.

b. **Invalid Agreement Provisions:** Should any provision of this Agreement become legally unenforceable, no other provision of this Agreement shall be affected, and this Agreement shall be construed as if the Agreement had never included the unenforceable provision.

c. **Practices Inconsistent with this Agreement:** No provision of this Agreement shall be modified or construed by any practice that is inconsistent with such

provision, and failure by Defendant or Plaintiff to comply with any provision, shall not affect the rights of either Party to thereafter comply or require the other to comply.

d. **Attorney's Fees:** If an action is brought to recover damages, equitable relief, or both, for any breach of this Agreement, or to interpret or enforce any provision of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees as part of its costs from the other party.

e. **Dismissal and Enforcement of Settlement Agreement:** The Court shall retain jurisdiction over the parties until performance in full of this Agreement pursuant to Cal. Code of Civil Procedure section 664.6. Pursuant to Evidence Code § 1123, this Agreement is enforceable, binding and admissible in a court of law in any proceeding to enforce its provisions.

f. **Ambiguities Not Construed Against Drafting Party:** The language contained in this Agreement has been reviewed and agreed to by all parties, and any ambiguities in the Agreement shall not be construed against whichever party drafted the particular provision in question.

g. **Counterparts:** This Agreement may be executed in counterparts, which will collectively, along with a copy of the text of the remainder of the Agreement, be deemed the original Agreement for all purposes. Furthermore, the Parties agree that a photocopy, fax, or email of signature shall have equal force and effect and admissibility as an original signature.

h. **Costs and Fees:** Defendant and Plaintiff agree that each shall bear their own costs and fees, except as expressly provided in this Agreement

i. **Advice of Legal Counsel:** The advice of legal counsel has been obtained by all Parties prior to the execution of this Agreement. Each of the Parties hereby executes this Agreement voluntarily and with full knowledge of its significance.

j. **Adequate Investigation of Facts.** In making and executing this Agreement, the Parties have made such investigation of the facts and the law pertaining to the matters described herein and this Agreement as they deem necessary, and they do not rely and have not relied upon any statement or representation, oral or written, made by any of the other parties to this Agreement with regard to any of the facts involved in any dispute or possible dispute between any of the Parties hereto, or with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement.

k. **Assumption of Risk of Mistake.** The Parties hereby expressly assume the risk of any mistake of fact or that the true facts might be other or different from facts now known or believed to exist, and it is the express intention of the Parties to forever settle, adjust, and compromise the claims released by this Agreement without regard to who may or may not have been correct in their respective understandings of the facts or the law relating thereto.

l. **Understanding of Agreement.** Each of the Parties has read and understands the contents of this Agreement.

m. **Medicare.** Plaintiff affirms, covenants, and warrants that he has made no claim for illness or injury against, nor is he aware of any facts supporting any claim against, the Released Parties under which the Released Parties could be liable for medical expenses incurred by him before or after the execution of this Agreement. Furthermore, Plaintiff is not aware of any medical expenses which Medicare has paid and for which the Released Parties are or could be liable now or in the future. Plaintiff agrees and affirms that, to the best of his knowledge, no liens of any governmental entities, including those for Medicare conditional payments, exist. In the event any person or governmental entity asserts rights or damages against any Released Party concerning any Medicare payment and/or right to payment, Defendant shall notify the Plaintiff to whom the claim pertains within 14 business days of notice thereof, to allow him an opportunity to cure.

n. **EFFECTIVE DATE OF THIS AGREEMENT:** This Agreement shall be effective when all the following have occurred: (a) seven days have passed since Plaintiff signed this Agreement, and Plaintiff has not exercised his right to revoke this Agreement; (b) the Court has approved the settlement of the PAGA Action, on the terms provided in the PAGA Settlement between the Parties (the "Effective Date").

PLEASE READ CAREFULLY. THIS GENERAL AND SPECIAL RELEASE AND SETTLEMENT AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS. JONATHAN KHODRA ACKNOWLEDGES THAT HE HAS READ THIS AGREEMENT AND UNDERSTANDS IT, HE HAS CONSULTED WITH AN ATTORNEY BEFORE SIGNING THIS AGREEMENT, AND HE IS VOLUNTARILY ENTERING INTO THIS AGREEMENT.

APPROVED AND ACCEPTED.

Dated: 6/18/2021, 2021

Dated: _____, 2021

By _____
Jonthan Khodra

DocuSigned by:
Jonathan Khodra
ED70F6693C384D8...

By _____
Its: _____
JHK Hospitality, LLC

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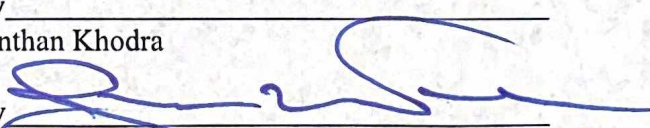
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APPROVED AND ACCEPTED.

Dated: _____, 2021

Dated: June 10, 2021

By _____
Jonathan Khodra

By 
Its: Joaquina Wynters - GM
JHK Hospitality, LLC

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: 6/19/2021, 2021

JCL LAW FIRM, APC

By Jean-Claude Lapuyade
Jean-Claude Lapuyade
Attorneys for Plaintiffs

Dated: 6/19/2021, 2021

ZAKAY LAW GROUP, APC

By Shani O. Zakay
Shani O. Zakay
Attorney for Plaintiffs

Dated: _____, 2021

LAW OFFICES OF LEE & PARK

By _____
Sang I. Lee
Attorneys for Defendant

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: _____, 2021

JCL LAW FIRM, APC

By _____
Jean-Claude Lapuyade
Attorneys for Plaintiffs

Dated: _____, 2021

ZAKAY LAW GROUP, APC

By _____
Shani O. Zakay
Attorney for Plaintiffs

Dated: June 10, 2021

LAW OFFICES OF LEE & PARK

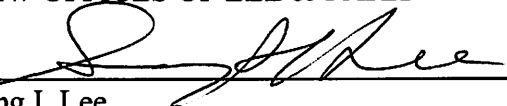
By  _____
Sang I. Lee
Attorneys for Defendant

EXHIBIT 2



ZAKAY LAW GROUP

A PROFESSIONAL LAW CORPORATION

shani@zakaylaw.com

February 12, 2020

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGA@dir.ca.gov
Via Online Submission

JHK HOSPITALITY, LLC
c/o James H. Kwon
25201 The Old Road
Stevenson Ranch, CA 91381
Certified Mail No. 7019 2280 0002 0097 8029

Re: Notice of Violations of California Labor Code Sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, and Applicable Industrial Welfare Commission Wage Orders, California Code of Regulations, Title 8 Section 1 1070(14) (Failure to Provide Seating) and Pursuant to California Labor Code Section 2699.3.

Dear Sir/ Madam:

This office represents JONATHAN KHODRA ("Plaintiff") and other aggrieved employees in an action against JHK HOSPITALITY, LLC, ("Defendant"). This office intends to file the enclosed Complaint on behalf of Plaintiff and other similarly situated employees. The purpose of this correspondence is to provide the Labor and Workforce Development Agency with notice of alleged violations of the California Labor Code and certain facts and theories in support of the alleged violations in accordance with Labor Code section 2699.3.

Plaintiff was employed by Defendant in California from May 2018 to July 2019. Plaintiff was paid on an hourly basis and entitled to minimum wages, overtime wages, and legally required meal and rest periods. At all times during his employment, Defendant failed to, among other things, provide Plaintiff, and all those similarly situated, with all legally mandated off-duty meal and rest periods, with minimum and overtime wages for all time worked, and, overtime compensation at one-and-one-half times the regular rate of pay. Plaintiff performed tasks which reasonably permitted sitting, and a seat would not have interfered with Plaintiff's performance of any of his tasks that may have required him to stand. Defendant failed to provide Plaintiff and other aggrieved employees with a suitable seat. Said conduct, in addition to the foregoing, violates Labor Code § 1198 and California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3.

As a consequence, Plaintiff contends that Defendant failed to fully compensate them, and other similarly situated and aggrieved employees, for all earned wages and failed to provide accurate wage statements. Accordingly, Plaintiff contends that Defendants' conduct violated Labor Code sections §§ 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.14, 1198, 1199, and applicable wage orders, California

Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the Applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code § 2699.3 and is therefore actionable pursuant to section 2698 *et seq.*

A copy of the Complaint is attached hereto. The Complaint (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iv) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to the Plaintiff, and (v) sets forth the illegal practices used by Defendant. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein.

If the agency needs any further information, please do not hesitate to ask. The class action lawsuit consists of a class of other aggrieved employees. As class counsel, our intention is to vigorously prosecute the class wide claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Act of 2004 on behalf of Plaintiffs and all aggrieved California employees and Class Members

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Shani O. Zakay', with a stylized flourish at the end.

Shani O. Zakay
Attorney at Law

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
3990 Old Town Avenue, Suite C204
San Diego, CA 92110
Telephone: (619)255-9047
Facsimile: (858) 404-9203

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
3990 Old Town Avenue, Suite C204
San Diego, CA 92110
Telephone: (619)599-8292
Facsimile: (619) 599-8291

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

JONATHAN KHODRA on behalf of himself
and on behalf of all persons similarly
situated,

Plaintiff,

v.

JHK HOSPITALITY, LLC, a Limited
Liability Company (dba La Quinta Inn &
Suites by Wyndham); and DOES 1-50,
Inclusive,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- 1) UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §17200 *et seq*;
- 2) FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
- 3) FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq*;
- 4) FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 5) FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
- 6) FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- 7) FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
- 8) FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203; and
- 9) VIOLATION OF CALIFORNIA LABOR CODE § 1198 AND CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 1 1070(14) (FAILURE TO PROVIDE SEATING)

DEMAND FOR A JURY TRIAL

1 Plaintiff Jonathan Khodra, an individual, (“PLAINTIFF”), on behalf of himself and all
2 other similarly situated current and former employees, allege on information and belief,
3 except for their own acts and knowledge which are based on personal knowledge, the following:

4 **PRELIMINARY ALLEGATIONS**

5 1. Defendant JHK HOSPITALITY, LLC (“DEFENDANT” or “Defendant”) is a
6 limited liability company and at all relevant times mentioned herein conducted and continues to
7 conduct substantial and regular business throughout California.

8 2. DEFENDANT, doing business as “La Quinta Inn & Suites by Wyndham,” owns
9 and operates a La Quinta Inn & Suites hotel in Stevenson Ranch in Los Angeles County.

10 3. PLAINTIFF was employed by DEFENDANT in California as a non-exempt
11 employee entitled to minimum wages, overtime pay and meal and rest periods from May of
12 2018 to July of 2019. PLAINTIFF was at all times relevant mentioned herein classified by
13 DEFENDANT as a non-exempt employee paid on an hourly basis.

14 4. PLAINTIFF bring this Class Action on behalf of himself and a California class,
15 defined as all individuals who are or previously were employed by DEFENDANT in California
16 and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the
17 period beginning four (4) years prior to the filing of the Complaint and ending on the date as
18 determined by the Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy
19 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
20 (\$5,000,000.00).

21 5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA
22 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during
23 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’S uniform policy and practice
24 which failed to lawfully compensate these employees for all their time worked.
25 DEFENDANT’S uniform policy and practice alleged herein is an unlawful, unfair and
26 deceptive business practice whereby DEFENDANTS retained and continue to retain wages due
27 to PLAINTIFF and the other members of the CALIFORNIA CLASS. PLAINTIFF and the other
28 members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by
DEFENDANT in the future, relief for the named PLAINTIFF and the other members of the

1 CALIFORNIA CLASS who have been economically injured by DEFENDANT'S past and
2 current unlawful conduct, and all other appropriate legal and equitable relief.

3 6. The true names and capacities, whether individual, corporate, subsidiary,
4 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
5 unknown to PLAINTIFF who therefore sue these Defendants by such fictitious names pursuant
6 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
7 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
8 PLAINTIFFS are informed and believes, and based upon that information and belief allege, that
9 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
10 responsible in some manner for one or more of the events and happenings that proximately
11 caused the injuries and damages hereinafter alleged

12 7. The agents, servants and/or employees of the Defendants and each of them acting
13 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
14 agent, servant and/or employee of the Defendants, and personally participated in the conduct
15 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
16 Consequently, the acts of each Defendant are legally attributable to the other Defendants and all
17 Defendants are jointly and severally liable to PLAINTIFF and the other members of the
18 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
19 Defendants' agents, servants and/or employees.

20 **THE CONDUCT**

21 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
22 was required to pay PLAINTIFF and the CALIFORNIA CLASS Members for all their time
23 worked, meaning the time during which an employee is subject to the control of an employer,
24 including all the time the employee is suffered or permitted to work. From time to time,
25 DEFENDANT required PLAINTIFF and CALIFORNIA CLASS Members to work without
26 paying them for all the time they were under DEFENDANT'S control. Specifically,
27 DEFENDANT required PLAINTIFF to work while clocked out during what was supposed to be
28 PLAINTIFF'S off-duty meal break, as well as before his shift started and after his shift ended.

1 PLAINTIFF was often interrupted by work assignments during his breaks. Indeed there were
2 many days where PLAINTIFF did not even receive a partial lunch. As a result, the PLAINTIFF
3 and other CALIFORNIA CLASS Members, from time to time, forfeited minimum wage and
4 overtime compensation by working without their time being accurately recorded and without
5 compensation at the applicable minimum wage and overtime rates. DEFENDANT’S uniform
6 policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all
7 time worked is evidenced by DEFENDANT’S business records.

8 9. During the CALIFORNIA CLASS PERIOD, DEFENDANT did not have in
9 place an immutable timekeeping system to accurately record and pay PLAINTIFF and other
10 CALIFORNIA CLASS Members for the actual time these employees worked each day,
11 including overtime hours. As a result DEFENDANT was able to and did in fact unlawfully, and
12 unilaterally alter the time recorded in DEFENDANT’s timekeeping system for PLAINTIFF and
13 the members of the CALIFORNIA CLASS in order to avoid paying these employees the
14 applicable overtime compensation for overtime worked and to avoid paying these employees for
15 missed meal breaks. As a result, PLAINTIFF and other CALIFORNIA CLASS Members, from
16 time to time, forfeited time worked by working without their time being accurately recorded and
17 without compensation at the applicable overtime rates.

18 10. The mutability of the timekeeping system also allowed DEFENDANT to alter
19 employee time records by recording fictitious thirty (30) minute meal breaks in DEFENDANT’s
20 timekeeping system so as to create the appearance that PLAINTIFF and other CALIFORNIA
21 CLASS Members clocked out for a thirty (30) minute meal break when in fact the employees
22 were not at all times provided an off-duty meal break. This practice is a direct result of
23 DEFENDANT’s uniform policy and practice of denying employees uninterrupted thirty (30)
24 minute off-duty meal breaks each day or otherwise compensate them for missed meal breaks.

25 11. As a result of their rigorous work schedules, and because they often worked
26 single-staffed shifts, PLAINTIFF and other CALIFORNIA CLASS Members were also from
27 time to time unable to take off duty meal breaks and were not fully relieved of duty for meal
28 periods. PLAINTIFF and other CALIFORNIA CLASS Members were required to perform

1 work as ordered by DEFENDANT for more than five (5) hours during a shift without receiving
2 an off-duty meal break. Further, DEFENDANT failed to provide PLAINTIFF and
3 CALIFORNIA CLASS Members with a second off-duty meal period each workday in which
4 these employees were required by DEFENDANT to work ten (10) hours of work. PLAINTIFF
5 and the other CALIFORNIA CLASS Members therefore forfeited meal breaks without
6 additional compensation and in accordance with DEFENDANT's strict corporate policy and
7 practice

8 12. During the CALIFORNIA CLASS PERIOD, from time to time, PLAINTIFF and
9 other CALIFORNIA CLASS Members were also required to work in excess of four (4) hours
10 without being provided ten (10) minute rest periods. Further, these employees were denied their
11 first rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
12 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of
13 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten (10)
14 minutes for some shifts worked of ten (10) hours or more. When they did have an opportunity to
15 take their rest breaks, PLAINTIFF and the CALIFORNIA CLASS Members were required to
16 remain on the premises and subject to DEFENDANT's control. PLAINTIFF and other
17 CALIFORNIA CLASS Members were also not provided with one hour wages in lieu thereof.
18 As a result of their rigorous work schedules, and because they often worked single-staffed
19 shifts, PLAINTIFF and other CALIFORNIA CLASS Members were periodically denied their
20 proper rest periods by DEFENDANT and DEFENDANT'S managers.

21 13. From time to time, when PLAINTIFF and other CALIFORNIA CLASS
22 Members missed meal and rest breaks, or when they worked during what was supposed to be
23 their meal breaks, DEFENDANT also failed to provide PLAINTIFF and the other members of
24 the CALIFORNIA CLASS with complete and accurate wage statements which failed to show,
25 among other things, the correct time and overtime worked, including, work performed in excess
26 of eight (8) hours in a workday and/or forty (40) hours in any workweek, and the correct penalty
27 payments or missed meal and rest periods. Cal. Lab. Code § 226 provides that every employer
28 shall furnish each of his or her employees with an accurate itemized wage statement in writing

1 showing, among other things, gross wages earned and all applicable hourly rates in effect during
2 the pay period and the corresponding amount of time worked at each hourly rate. Aside from the
3 violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an
4 itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.*
5 As a result, from time to time DEFENDANT provided PLAINTIFF and the other members of
6 the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

7 14. DEFENDANT as a matter of corporate policy, practice and procedure,
8 intentionally, knowingly and systematically failed to reimburse and indemnify the PLAINTIFF
9 and the other CALIFORNIA CLASS Members for required business expenses incurred by the
10 PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence of discharging
11 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers
12 are required to indemnify employees for all expenses incurred in the course and scope of their
13 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or
14 her employee for all necessary expenditures or losses incurred by the employee in direct
15 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
16 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
17 believed them to be unlawful."

18 15. In the course of their employment, PLAINTIFF and other CALIFORNIA
19 CLASS Members as a business expense, were required by DEFENDANT to use their own
20 personal cellular phones as a result of and in furtherance of their job duties as employees for
21 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
22 associated with the use of their personal cellular phones for DEFENDANT'S benefit.
23 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by
24 DEFENDANT to use their personal cell phones to for work related issues. As a result, in the
25 course of their employment with DEFENDANT the PLAINTIFF and other members of the
26 CALIFORNIA CLASS incurred unreimbursed business expenses which included, but were not
27 limited to, costs related to the use of their personal cellular phones all on behalf of and for the
28 benefit of DEFENDANT.

1 16. In addition, when DEFENDANT required PLAINTIFF and other CALIFORNIA
2 CLASS Members to engage in additional work, this sometimes resulted in a second reporting
3 for work in a single workday. In such a circumstance of a second reporting for work in a single
4 workday, DEFENDANT failed to pay these employees reporting time pay as required by Cal.
5 Code Regs., tit. 8 § 11040. Subdivision 5(B) states: "If an employee is required to report for
6 work a second time in any one workday and is furnished less than two (2) hours of work on the
7 second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of
8 pay, which shall be not less than the minimum wage." Cal. Code Regs., tit. 8 § 11040, subd.
9 5(B).

10 17. By reason of this uniform conduct applicable to PLAINTIFF and all
11 CALIFORNIA CLASS Members, DEFENDANT committed acts of unfair competition in
12 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et*
13 *seq.*(the "UCL"), by engaging in a company-wide policy and procedure which failed to
14 accurately calculate and record all missed meal and rest periods by PLAINTIFF and other
15 CALIFORNIA CLASS Members. The proper recording of these employees' missed meal and
16 rest breaks is the DEFENDANT'S burden. As a result of DEFENDANT'S intentional disregard
17 of the obligation to meet this burden, DEFENDANT failed to properly calculate and/or pay all
18 required compensation for work performed by the members of the CALIFORNIA CLASS and
19 violated the California Labor Code and regulations promulgated thereunder as herein alleged.

20 18. PLAINTIFF further alleges that the station counters in DEFENDANT's hotel
21 provides ample space behind each counter area to allow for the presence and use of a stool or
22 seat by DEFENDANT's employees' during the performance of their work duties.
23 DEFENDANT's employees' working at DEFENDANT's hotel spend a very substantial portion,
24 and, in many workdays, the vast majority of their working time behind these counters. The
25 nature of the position can reasonably be accomplished while using a seat/stool.

26 19. In violation of the applicable sections of the California Labor Code and the
27 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,
28 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly

1 and systematically failed to provide PLAINTIFF and the other Aggrieved Employees suitable
2 seating when the nature of these employees' work reasonably permitted sitting.

3 20. DEFENDANT knew or should have known that PLAINTIFF and other
4 Aggrieved Employees were entitled to suitable seating and/or were entitled to sit when it did not
5 interfere with the performance of their duties, and that DEFENDANT did not provide suitable
6 seating and/or did not allow them to sit when it did not interfere with the performance of their
7 duties. By reason of this conduct applicable to PLAINTIFF and all Aggrieved Employees,
8 DEFENDANT violated California Labor Code Section 1198 and Wage Order 4-2001, Section
9 14 by failing to provide suitable seats.

10 21. Specifically as to PLAINTIFF'S pay, he was from time to time unable to take off
11 duty meal and rest breaks and was not fully relieved of duty for his rest and meal periods.
12 PLAINTIFF was required to perform work as ordered by DEFENDANT for more than five (5)
13 hours during a shift without receiving an off-duty meal break. Further, DEFENDANT failed to
14 provide PLAINTIFF with a second off-duty meal period each workday in which he was
15 required by DEFENDANT to work ten (10) hours of work. PLAINTIFF therefore forfeited meal
16 and rest breaks without additional compensation and in accordance with DEFENDANT'S strict
17 corporate policy and practice. DEFENDANT also provided PLAINTIFF with paystubs that
18 failed to accurately display payments for missed meal and rest periods for certain pay periods in
19 violation of Cal. Lab. Code § 226(a). To date, DEFENDANT has not fully paid PLAINTIFFS
20 all wages still owed to them or any penalty wages owed to them under Cal. Lab. Code § 203.
21 The amount in controversy for PLAINTIFF individually does not exceed the sum or value of
22 \$75,000.

23 **JURISDICTION AND VENUE**

24 22. This Court has jurisdiction over this Action pursuant to California Code of Civil
25 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
26 action is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees
27 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.
28

1 23. Venue is proper in this Court pursuant to California Code of Civil Procedure,
2 Sections 395 and 395.5, because DEFENDANT (i) currently maintain and at all relevant times
3 maintained offices and facilities in this County and/or conducts substantial business in this
4 County, and (ii) committed the wrongful conduct herein alleged in this County against members
5 of the CALIFORNIA CLASS and CALIFORNIA LABOR SUB-CLASS

6 **THE CALIFORNIA CLASS**

7 24. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive
8 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
9 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all
10 individuals who are or previously were employed by DEFENDANT in California and classified
11 as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period
12 beginning four (4) years prior to the filing of the original complaint and ending on the date as
13 determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy
14 for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
15 (\$5,000,000.00).

16 25. To the extent equitable tolling operates to toll claims by the CALIFORNIA
17 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
18 accordingly.

19 26. DEFENDANT, as a matter of company policy, practice and procedure, and in
20 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
21 requirements, and the applicable provisions of California law, intentionally, knowingly, and
22 willfully, engaged in a practice whereby DEFENDANT systematically failed to correctly
23 calculate and record all meal and rest breaks missed by PLAINTIFF and the other members of
24 the CALIFORNIA CLASS, even though DEFENDANT enjoyed the benefit of this work,
25 required employees to perform this work and permitted or suffered to permit this work.

26 27. DEFENDANT have the legal burden to establish that each and every
27 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as
28 required by California laws. DEFENDANT, however, as a matter of uniform and systematic

1 policy and procedure failed to have in place during the CALIFORNIA CLASS PERIOD and
2 still fails to have in place a policy or practice to ensure that each and every CALIFORNIA
3 CLASS Member is paid as required by law, so as to satisfy their burden. This common business
4 practice applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a
5 class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions
6 Code §§ 17200, *et seq.* (the “UCL”) as causation, damages, and reliance are not elements of this
7 claim.

8 28. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA
9 CLASS Members is impracticable.

10 29. DEFENDANT uniformly violated the rights of the CALIFORNIA CLASS under
11 California law by:

- 12 a. Violating the California Unfair Competition Laws, Cal. Bus. & Prof. Code §§
13 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
14 company policies, practices and procedures that failed to pay all wages due the
15 CALIFORNIA CLASS for all time worked;
- 16 b. Committing an act of unfair competition in violation of the California Unfair
17 Competition Laws, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, by failing to
18 provide mandatory meal and/or rest breaks to PLAINTIFFS and the
19 CALIFORNIA CLASS members;
- 20 c. Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code
21 §§ 17200, *et seq.*, by unlawfully, unfairly and/or deceptively having in place
22 company policies, practices and procedures that uniformly and systematically
23 failed to record and pay PLAINTIFF and other members of the CALIFORNIA
24 CLASS for all time worked, including minimum wages owed and overtime
25 wages owed for work performed by these employees; and
- 26 d. Violating the UCL by unlawfully, unfairly and/or deceptively having in place
27 company policies, practices and procedures that failed to pay all reporting time
28 wages due to PLAINTIFF and the CALIFORNIA CLASS.

- 1 e. Committing an act of unfair competition in violation of the California Unfair
2 Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by violating Cal.
3 Lab. Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA
4 CLASS members with necessary expenses incurred in the discharge of their job
5 duties.

6 30. The Class Action meets the statutory prerequisites for the maintenance of a Class
7 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 8 a. The persons who comprise the CALIFORNIA CLASS are so numerous that the
9 joinder of all such persons is impracticable and the disposition of their claims as
10 a class will benefit the parties and the Court;
- 11 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
12 raised in this Complaint are common to the CALIFORNIA CLASS will apply
13 uniformly to every member of the CALIFORNIA CLASS;
- 14 c. The claims of the representative PLAINTIFF are typical of the claims of each
15 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other members
16 of the CALIFORNIA CLASS, were classified as a non- exempt employee paid
17 on an hourly basis who was subjected to the DEFENDANT’S deceptive practice
18 and policy which failed to provide the legally required meal and rest periods to
19 the CALIFORNIA CLASS and thereby systematically underpaid compensation
20 to PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF sustained economic
21 injury as a result of DEFENDANT’S employment practices. PLAINTIFF and the
22 members of the CALIFORNIA CLASS were and are similarly or identically
23 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
24 misconduct engaged in by DEFENDANT; and
- 25 d. The representative PLAINTIFF will fairly and adequately represent and protect
26 the interest of the CALIFORNIA CLASS, and has retained counsel who are
27 competent and experienced in Class Action litigation. There are no material
28 conflicts between the claims of the representative PLAINTIFF and the members

1 of the CALIFORNIA CLASS that would make class certification inappropriate.
2 Counsel for the CALIFORNIA CLASS will vigorously assert the claims of all
3 CALIFORNIA CLASS Members.

4 31. In addition to meeting the statutory prerequisites to a Class Action, this action is
5 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

6 a. Without class certification and determination of declaratory, injunctive, statutory
7 and other legal questions within the class format, prosecution of separate actions
8 by individual members of the CALIFORNIA CLASS will create the risk of:

9 i. Inconsistent or varying adjudications with respect to individual members
10 of the CALIFORNIA CLASS which would establish incompatible
11 standards of conduct for the parties opposing the CALIFORNIA CLASS;
12 and/or;

13 ii. Adjudication with respect to individual members of the CALIFORNIA
14 CLASS which would as a practical matter be dispositive of interests of
15 the other members not party to the adjudication or substantially impair or
16 impede their ability to protect their interests.

17 b. The parties opposing the CALIFORNIA CLASS have acted or refused to act on
18 grounds generally applicable to the CALIFORNIA CLASS, making appropriate
19 class-wide relief with respect to the CALIFORNIA CLASS as a whole in that
20 DEFENDANT uniformly failed to pay all wages due for all time worked by the
21 members of the CALIFORNIA CLASS as required by law;

22 i. With respect to the First Cause of Action, the final relief on behalf of the
23 CALIFORNIA CLASS sought does not relate exclusively to restitution
24 because through this claim PLAINTIFF seeks declaratory relief holding
25 that the DEFENDANT's policy and practices constitute unfair
26 competition, along with declaratory relief, injunctive relief, and incidental
27 equitable relief as may be necessary to prevent and remedy the conduct
28 declared to constitute unfair competition;

1 c. Common questions of law and fact exist as to the members of the CALIFORNIA
2 CLASS, with respect to the practices and violations of California law as listed
3 above, and predominate over any question affecting only individual
4 CALIFORNIA CLASS Members, and a Class Action is superior to other
5 available methods for the fair and efficient adjudication of the controversy,
6 including consideration of:

7 i. The interests of the members of the CALIFORNIA CLASS in
8 individually controlling the prosecution or defense of separate actions in
9 that the substantial expense of individual actions will be avoided to
10 recover the relatively small amount of economic losses sustained by the
11 individual CALIFORNIA CLASS Members when compared to the
12 substantial expense and burden of individual prosecution of this
13 litigation;

14 ii. Class certification will obviate the need for unduly duplicative litigation
15 that would create the risk of:

16 1. Inconsistent or varying adjudications with respect to individual
17 members of the CALIFORNIA CLASS, which would establish
18 incompatible standards of conduct for the DEFENDANT; and/or;

19 2. Adjudications with respect to individual members of the
20 CALIFORNIA CLASS would as a practical matter be dispositive
21 of the interests of the other members not parties to the
22 adjudication or substantially impair or impede their ability to
23 protect their interests;

24 iii. In the context of wage litigation, because a substantial number of
25 individual CALIFORNIA CLASS Members will avoid asserting their
26 legal rights out of fear of retaliation by DEFENDANT, which may
27 adversely affect an individual's job with DEFENDANT or with a
28

1 subsequent employer, the Class Action is the only means to assert their
2 claims through a representative; and

3 iv. A class action is superior to other available methods for the fair and
4 efficient adjudication of this litigation because class treatment will
5 obviate the need for unduly and unnecessary duplicative litigation that is
6 likely to result in the absence of certification of this action pursuant to
7 Cal. Code of Civ. Proc. § 382.

8 32. The Court should permit this action to be maintained as a Class Action pursuant
9 to Cal. Code of Civ. Proc. § 382 because:

- 10 a. The questions of law and fact common to the CALIFORNIA CLASS
11 predominate over any question affecting only individual CALIFORNIA CLASS
12 Members because the DEFENDANT's employment practices are uniform and
13 systematically applied with respect to the CALIFORNIA CLASS.
- 14 b. A Class Action is superior to any other available method for the fair and efficient
15 adjudication of the claims of the members of the CALIFORNIA CLASS because
16 in the context of employment litigation a substantial number of individual
17 CALIFORNIA CLASS Members will avoid asserting their rights individually
18 out of fear of retaliation or adverse impact on their employment;
- 19 c. The members of the CALIFORNIA CLASS are so numerous that it is
20 impractical to bring all members of the CALIFORNIA CLASS before the Court;
- 21 d. PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able to
22 obtain effective and economic legal redress unless the action is maintained as a
23 Class Action;
- 24 e. There is a community of interest in obtaining appropriate legal and equitable
25 relief for the acts of unfair competition, statutory violations and other
26 improprieties, and in obtaining adequate compensation for the damages and
27 injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA
28 CLASS;

- 1 f. There is a community of interest in ensuring that the combined assets of
2 DEFENDANT are sufficient to adequately compensate the members of the
3 CALIFORNIA CLASS for the injuries sustained;
- 4 g. DEFENDANT have acted or refused to act on grounds generally applicable to
5 the CALIFORNIA CLASS, thereby making final class-wide relief appropriate
6 with respect to the CALIFORNIA CLASS as a whole;
- 7 h. The members of the CALIFORNIA CLASS are readily ascertainable from the
8 business records of DEFENDANT; and
- 9 i. Class treatment provides manageable judicial treatment calculated to bring an
10 efficient and rapid conclusion to all litigation of all wage and hour related claims
11 arising out of the conduct of DEFENDANT as to the members of the
12 CALIFORNIA CLASS.

13 33. DEFENDANT maintains records from which the Court can ascertain and
14 identify by job title each of DEFENDANTS' employees who as have been systematically,
15 intentionally and uniformly subjected to DEFENDANT'S company policy, practices and
16 procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint to include
17 any additional job titles of similarly situated employees when they have been identified.

18 **THE CALIFORNIA LABOR SUB-CLASS**

19 34. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh,
20 Eighth, and Ninth causes of Action on behalf of a California sub-class, defined as all members
21 of the CALIFORNIA CLASS classified as non-exempt employees (the "CALIFORNIA
22 LABOR SUB-CLASS") at any time during the period three (3) years prior to the filing of the
23 original complaint and ending on the date as determined by the Court (the "CALIFORNIA
24 LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in
25 controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under
26 five million dollars (\$5,000,000.00).

27 35. DEFENDANT, as a matter of company policy, practice and procedure, and in
28 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order

1 requirements, and the applicable provisions of California law, intentionally, knowingly, and
2 willfully, engaged in a practice whereby DEFENDANT failed to correctly calculate
3 compensation for the time worked by PLAINTIFF and the other members of the CALIFORNIA
4 LABOR SUB-CLASS, and other wages and premiums owed to these employees, even though
5 DEFENDANT enjoyed the benefit of this work, required employees to perform this work and
6 permitted or suffered to permit this overtime work. DEFENDANT has uniformly denied these
7 CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in
8 order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling
9 operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the
10 CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

11 36. DEFENDANT maintains records from which the Court can ascertain and
12 identify by name and job title, each of DEFENDANT'S employees who have been
13 systematically, intentionally and uniformly subjected to DEFENDANT'S company policy,
14 practices and procedures as herein alleged. PLAINTIFF will seek leave to amend the Complaint
15 to include any additional job titles of similarly situated employees when they have been
16 identified.

17 37. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
18 CALIFORNIA LABOR SUB-CLASS Members is impracticable

19 38. Common questions of law and fact exist as to members of the CALIFORNIA
20 LABOR SUB-CLASS, including, but not limited, to the following:

- 21 a. Whether DEFENDANT unlawfully failed to correctly calculate and pay
22 compensation due to members of the CALIFORNIA LABOR SUB- CLASS for
23 missed meal and rest breaks in violation of the California Labor Code and
24 California regulations and the applicable California Wage Order;
- 25 b. Whether DEFENDANT failed to provide PLAINTIFF and the other members of
26 the CALIFORNIA LABOR SUB-CLASS with legally required uninterrupted
27 thirty (30) minute meal breaks and rest periods;

- c. Whether DEFENDANT failed to provide PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- d. Whether DEFENDANT have engaged in unfair competition by the above-listed conduct;
- e. The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and
- f. Whether DEFENDANT's conduct was willful.

39. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under California law by:

- a. Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked, for which DEFENDANTS are liable pursuant to Cal. Lab. Code § 1194;
- b. Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANTS are liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- c. Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required rest breaks;
- d. Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing showing all accurate and applicable overtime rates in effect during the pay period and the corresponding amount of time worked at each overtime rate by the employee;

- 1 e. Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the
2 CALIFORNIA CLASS members with necessary expenses incurred in the
3 discharge of their job duties; and
4 f. Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
5 employee is discharged or quits from employment, the employer must pay the
6 employee all wages due without abatement, by failing to tender full payment
7 and/or restitution of wages owed or in the manner required by California law to
8 the members of the CALIFORNIA LABOR SUB-CLASS who have terminated
9 their employment.

10 40. This Class Action meets the statutory prerequisites for the maintenance of a
11 Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 12 a. The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
13 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members
14 is impracticable and the disposition of their claims as a class will benefit the
15 parties and the Court;
16 b. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are
17 raised in this Complaint are common to the CALIFORNIA LABOR SUB-
18 CLASS and will apply uniformly to every member of the CALIFORNIA
19 LABOR SUB-CLASS;
20 c. The claims of the representative PLAINTIFF are typical of the claims of each
21 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the
22 other members of the CALIFORNIA LABORSUB-CLASS, was a non-exempt
23 employee paid on an hourly basis who was subjected to the DEFENDANT'S
24 practice and policy which failed to pay the correct amount of wages due to the
25 CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as
26 a result of DEFENDANT's employment practices. PLAINTIFF and the members
27 of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically
28

1 harmed by the same unlawful, deceptive, unfair and pervasive pattern of
2 misconduct engaged in by DEFENDANT; and

- 3 d. The representative PLAINTIFF will fairly and adequately represent and protect
4 the interest of the CALIFORNIA LABOR SUB-CLASS, and has retained
5 counsel who are competent and experienced in Class Action litigation. There are
6 no material conflicts between the claims of the representative PLAINTIFF and
7 the members of the CALIFORNIA LABOR SUB-CLASS that would make class
8 certification inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS
9 will vigorously assert the claims of all CALIFORNIA LABOR SUB-CLASS
10 Members.

11 41. In addition to meeting the statutory prerequisites to a Class Action, this action is
12 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 13 a. Without class certification and determination of declaratory, injunctive, statutory
14 and other legal questions within the class format, prosecution of separate actions
15 by individual members of the CALIFORNIA LABOR SUB-CLASS will create
16 the risk of:
- 17 i. Inconsistent or varying adjudications with respect to individual members
18 of the CALIFORNIA LABOR SUB-CLASS which would establish
19 incompatible standards of conduct for the parties opposing the
20 CALIFORNIA LABOR SUB-CLASS; or
- 21 ii. Adjudication with respect to individual members of the CALIFORNIA
22 LABOR SUB-CLASS which would as a practical matter be dispositive of
23 interests of the other members not party to the adjudication or
24 substantially impair or impede their ability to protect their interests.
- 25 b. The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
26 refused to act on grounds generally applicable to the CALIFORNIA LABOR
27 SUB-CLASS, making appropriate class-wide relief with respect to the
28 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANTS

1 uniformly failed to pay all wages due for all time worked by the members of the
2 CALIFORNIA LABOR SUB-CLASS as required by law;

3 c. Common questions of law and fact predominate as to the members of the
4 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
5 violations of California Law as listed above, and predominate over any question
6 affecting only individual CALIFORNIA LABOR SUB-CLASS Members, and a
7 Class Action is superior to other available methods for the fair and efficient
8 adjudication of the controversy, including consideration of:

9 i. The interests of the members of the CALIFORNIA LABOR SUB-
10 CLASS in individually controlling the prosecution or defense of separate
11 actions in that the substantial expense of individual actions will be
12 avoided to recover the relatively small amount of economic losses
13 sustained by the individual CALIFORNIA LABOR SUB-CLASS
14 Members when compared to the substantial expense and burden of
15 individual prosecution of this litigation;

16 ii. Class certification will obviate the need for unduly duplicative litigation
17 that would create the risk of:

18 1. Inconsistent or varying adjudications with respect to individual
19 members of the CALIFORNIA LABOR SUB-CLASS, which
20 would establish incompatible standards of conduct for the
21 DEFENDANTS; and/or,

22 2. Adjudications with respect to individual members of the
23 CALIFORNIA LABOR SUB-CLASS would as a practical matter
24 be dispositive of the interests of the other members not parties to
25 the adjudication or substantially impair or impede their ability to
26 protect their interests;

27 iii. In the context of wage litigation because a substantial number of
28 individual CALIFORNIA LABOR SUB-CLASS Members will avoid

1 asserting their legal rights out of fear of retaliation by DEFENDANTS,
2 which may adversely affect an individual's job with DEFENDANTS or
3 with a subsequent employer, the Class Action is the only means to assert
4 their claims through a representative; and,

5 iv. A class action is superior to other available methods for the fair and
6 efficient adjudication of this litigation because class treatment will
7 obviate the need for unduly and unnecessary duplicative litigation that is
8 likely to result in the absence of certification of this action pursuant to
9 Cal. Code of Civ. Proc. § 382.

10 42. This Court should permit this action to be maintained as a Class Action pursuant
11 to Cal. Code of Civ. Proc. § 382 because:

- 12 a. The questions of law and fact common to the CALIFORNIA LABOR SUB-
13 CLASS predominate over any question affecting only individual CALIFORNIA
14 LABOR SUB-CLASS Members;
- 15 b. A Class Action is superior to any other available method for the fair and efficient
16 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-
17 CLASS because in the context of employment litigation a substantial number of
18 individual CALIFORNIA LABOR SUB-CLASS Members will avoid asserting
19 their rights individually out of fear of retaliation or adverse impact on their
20 employment;
- 21 c. The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that
22 it is impractical to bring all members of the CALIFORNIA LABOR SUB-
23 CLASS before the Court;
- 24 d. PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members, will
25 not be able to obtain effective and economic legal redress unless the action is
26 maintained as a Class Action;
- 27 e. There is a community of interest in obtaining appropriate legal and equitable
28 relief for the acts of unfair competition, statutory violations and other

improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

- f. There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- g. DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- h. The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS Members classified as non-exempt employees during the CALIFORNIA LABOR SUB-CLASS PERIOD; and
- i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all wage and hour related claims arising out of the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-CLASS.

FIRST CAUSE OF ACTION

UNLAWFUL BUSINESS PRACTICES

(Cal. Bus. And Prof. Code §§ 17200, *et seq.*)

(Alleged By PLAINTIFF and the CALIFORNIA CLASS against all Defendants)

43. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

44. DEFENDANT is a "person" as that term is defined under Cal. Bus. And Prof. Code § 17021.

1 45. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
2 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
3 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
4 competition as follows:

5 Any person who engages, has engaged, or proposes to engage in unfair competition may
6 be enjoined in any court of competent jurisdiction. The court may make such orders or
7 judgments, including the appointment of a receiver, as may be necessary to prevent the
8 use or employment by any person of any practice which constitutes unfair competition,
as defined in this chapter, or as may be necessary to restore to any person in interest any
money or property, real or personal, which may have been acquired by means of such
unfair competition. (Cal. Bus. & Prof. Code § 17203).

9 46. By the conduct alleged herein, DEFENDANT has engaged and continues to
10 engage in a business practice which violates California law, including but not limited to, the
11 applicable Wage Order(s), the California Code of Regulations and the California Labor Code
12 including Sections 204, 206.5, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802 for
13 which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus. &
14 Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
15 unfair competition, including restitution of wages wrongfully withheld.

16 47. By the conduct alleged herein, DEFENDANT’S practices were unlawful and
17 unfair in that these practices violated public policy, were immoral, unethical, oppressive
18 unscrupulous or substantially injurious to employees, and were without valid justification or
19 utility for which this Court should issue equitable and injunctive relief pursuant to Section
20 17203 of the California Business & Professions Code, including restitution of wages wrongfully
21 withheld.

22 48. By the conduct alleged herein, DEFENDANT’S practices were deceptive and
23 fraudulent in that DEFENDANT’S uniform policy and practice failed to pay PLAINTIFF, and
24 other members of the CALIFORNIA CLASS, wages due, failed to accurately to record the time
25 worked, failed to pay reporting time pay, and failed to reimburse for expenses due to a
26 systematic practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and
27 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, *et seq.*,
28

1 and for which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. &
2 Prof. Code § 17203, including restitution of wages wrongfully withheld.

3 49. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
4 unfair and deceptive in that DEFENDANT'S employment practices caused PLAINTIFF and the
5 other members of the CALIFORNIA CLASS to be underpaid during their employment with
6 DEFENDANT.

7 50. By the conduct alleged herein, DEFENDANT's practices were also unfair and
8 deceptive in that DEFENDANT's uniform policies, practices and procedures failed to provide
9 mandatory meal and/or rest breaks to PLAINTIFF and the CALIFORNIA CLASS members.

10 51. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
11 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which an off-duty
12 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay
13 for each workday in which a second off-duty meal period was not timely provided for each ten
14 (10) hours of work.

15 52. PLAINTIFF further demands on behalf of himself and on behalf of each
16 CALIFORNIA CLASS member, one (1) hour of pay for each workday in which a rest period
17 was not timely provided as required by law.

18 53. By and through the unlawful and unfair business practices described herein,
19 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the
20 other members of the CALIFORNIA CLASS, including earned wages, and has deprived them
21 of valuable rights and benefits guaranteed by law and contract, all to the detriment of these
22 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly
23 compete against competitors who comply with the law.

24 54. All the acts described herein as violations of, among other things, the Industrial
25 Welfare Commission Wage Orders, the California Code of Regulations, and the California
26 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,
27 oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and
28 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

55. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and do, seek such relief as may be necessary to restore to them the money and property which DEFENDANT have acquired, or of which PLAINTIFF and the other members of the CALIFORNIA CLASS have been deprived, by means of the above described unlawful and unfair business practices, including earned but unpaid wages.

56. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled to, and do, seek a declaration that the described business practices are unlawful, unfair and deceptive, and that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful and unfair business practices in the future.

57. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm unless DEFENDANT are restrained from continuing to engage in these unlawful and unfair business practices.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES (Cal. Lab. Code §§ 1194, 1197 and 1197.1)

(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL Defendants)

58. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

59. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

1 60. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
2 public policy, an employer must timely pay its employees for all hours worked.

3 61. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
4 commission is the minimum wage to be paid to employees, and the payment of a wage less than
5 the minimum so fixed is unlawful.

6 62. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
7 including minimum wage compensation and interest thereon, together with the costs of suit.

8 63. DEFENDANT maintained a uniform wage practice of paying PLAINTIFF and
9 the other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
10 amount of time they work. As set forth herein, DEFENDANT's uniform policy and practice
11 was to unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the
12 other members of the CALIFORNIA LABOR SUB-CLASS.

13 64. DEFENDANT'S uniform pattern of unlawful wage and hour practices
14 manifested, without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a
15 whole, as a result of implementing a uniform policy and practice that denies accurate
16 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
17 CLASS in regards to minimum wage pay.

18 65. In committing these violations of the California Labor Code, DEFENDANT
19 inaccurately calculated the correct time worked and consequently underpaid the actual time
20 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.
21 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other
22 benefits in violation of the California Labor Code, the Industrial Welfare Commission
23 requirements and other applicable laws and regulations.

24 66. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
25 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not
26 receive the correct minimum wage compensation for their time worked for DEFENDANTS.

27 67. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
28 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than
they were entitled to, constituting a failure to pay all earned wages.

1 68. By virtue of DEFENDANT'S unlawful failure to accurately pay all earned
2 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
3 CLASS for the true time they worked, PLAINTIFF and the other members of the
4 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
5 injury in amounts which are presently unknown to them and which will be ascertained
6 according to proof at trial.

7 69. DEFENDANT knew or should have known that PLAINTIFFS and the other
8 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
9 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
10 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
11 practice and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to
12 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
13 correct minimum wages for their time worked.

14 70. In performing the acts and practices herein alleged in violation of California labor
15 laws, and refusing to compensate members of the CALIFORNIA LABOR SUB-CLASS for all
16 time worked and provide them with requisite compensation, DEFENDANT acted and continue
17 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of
18 the CALIFORNIA LABOR SUB-CLASS with conscious and utter disregard for their legal
19 rights, or the consequences to them, and with the despicable intent of depriving them of their
20 property and legal rights, and otherwise causing them injury in order to increase company
21 profits at the expense of these employees.

22 71. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
23 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as
24 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by
25 the California Labor Code and/or other applicable statutes. To the extent minimum wage
26 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members
27 who have terminated their employment, DEFENDANT'S conduct also violates Labor Code §§
28 201 and/or 202, and therefore these individuals are also entitled to waiting time penalties under
Cal. Lab. Code §203, which penalties are sought herein on behalf of these CALIFORNIA
LABOR SUB-CLASS Members. DEFENDANT'S conduct as alleged herein was willful,

1 intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-
2 CLASS Members are entitled to seek and recover statutory costs.

3 **THIRD CAUSE OF ACTION**

4 **FAILURE TO PAY OVERTIME COMPENSATION**
5 **(Cal. Lab. Code §§ 204, 510, 1194 and 1198)**

6 **(Alleged By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS against ALL**
7 **Defendants)**

8 72. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
9 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs
10 of this Complaint.

11 73. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
12 bring a claim for DEFENDANT's willful and intentional violations of the California Labor
13 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to
14 properly compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime
15 worked, including, work performed in excess of eight (8) hours in a workday and/or forty (40)
16 hours in any workweek.

17 74. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
18 public policy, an employer must timely pay its employees for all hours worked.

19 75. Cal. Lab. Code § 510 further provides that employees in California shall not be
20 employed more than eight (8) hours per workday and/or more than forty (40) hours per
21 workweek unless they receive additional compensation beyond their regular wages in amount
22 specified by law.

23 76. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
24 including overtime compensation and interest thereon, together with the costs of suit. Cal. Lab.
25 Code § 1198 further states that the employment of an employee for longer hours than those
26 fixed by the Industrial Welfare Commission is unlawful.

27 77. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
28 CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to work for
DEFENDANT and were not paid for all the time they worked, including overtime work.

1 78. DEFENDANT's uniform pattern of unlawful wage and hour practices manifested,
2 without limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a
3 result of implementing a uniform policy and practice that failed to accurately record overtime
4 worked by PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS,
5 and denied accurate compensation to PLAINTIFF and the other members of the CALIFORNIA
6 LABOR SUB-CLASS for overtime worked, including, the work performed in excess of eight
7 (8) hours in a workday and/or forty (40) hours in any workweek.

8 79. In committing these violations of the California Labor Code, DEFENDANT acted
9 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
10 the California Labor Code, the Industrial Welfare Commission requirements and other
11 applicable laws and regulations.

12 80. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
13 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not
14 receive full compensation for all overtime worked.

15 81. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
16 from the overtime requirements of the law. None of these exemptions are applicable to
17 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further
18 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS are not subject
19 to a valid collective bargaining agreement that would preclude the causes of action contained
20 herein this Complaint. Rather, PLAINTIFF bring this Action on behalf of themselves and the
21 CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-negotiable,
22 non-waivable rights provided by the State of California.

23 82. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
24 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked than
25 they were entitled to, constituting a failure to pay all earned wages.

26 83. DEFENDANT failed to accurately pay PLAINTIFF and the other members of the
27 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in
28 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &
1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
CLASS were required to work, and did in fact work, overtime as to which DEFENDANT failed

1 to accurately record and pay using the applicable overtime rate as evidenced by
2 DEFENDANT's business records and witnessed by employees.

3 84. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
4 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
5 CLASS for the true time they worked, PLAINTIFF and the other members of the
6 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
7 injury in amounts which are presently unknown to them and which will be ascertained
8 according to proof at trial.

9 85. DEFENDANT knew or should have known that PLAINTIFF and the other
10 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their overtime
11 worked. DEFENDANT systematically elected, either through intentional malfeasance or gross
12 nonfeasance, to not pay employees for their labor as a matter of uniform company policy,
13 practice and procedure, and DEFENDANT perpetrated this systematic scheme by refusing to
14 pay PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS the
15 applicable overtime rate.

16 86. In performing the acts and practices herein alleged in violation of California labor
17 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for
18 all time worked and provide them with the requisite overtime compensation, DEFENDANT
19 acted and continue to act intentionally, oppressively, and maliciously toward PLAINTIFF and
20 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter
21 disregard for their legal rights, or the consequences to them, and with the despicable intent of
22 depriving them of their property and legal rights, and otherwise causing them injury in order to
23 increase company profits at the expense of these employees.

24 87. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
25 therefore request recovery of all unpaid wages, including overtime wages, according to proof,
26 interest, statutory costs, as well as the assessment of any statutory penalties against
27 DEFENDANT, in a sum as provided by the California Labor Code and/or other applicable
28 statutes. To the extent overtime compensation is determined to be owed to the CALIFORNIA
LABOR SUB-CLASS Members who have terminated their employment, DEFENDANT's
conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be

1 entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein
2 on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as
3 alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other
4 CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

5 **FOURTH CAUSE OF ACTION**

6 **FAILURE TO PROVIDE REQUIRED MEAL PERIODS**

7 **(Cal. Lab. Code §§ 226.7 & 512)**

8 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all Defendants)**

9 88. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
10 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
11 paragraphs of this Complaint.

12 89. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to provide all
13 the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA LABOR
14 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature
15 of the work performed by PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS MEMBERS
16 did not prevent these employees from being relieved of all of their duties for the legally required
17 off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other
18 CALIFORNIA LABOR SUB-CLASS Members were often not fully relieved of duty by
19 DEFENDANT for their meal periods. Additionally, DEFENDANT's failure to provide
20 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal
21 breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's business records.
22 As a result, PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS
23 therefore forfeited meal breaks without additional compensation and in accordance with
24 DEFENDANT's strict corporate policy and practice.

25 90. DEFENDANT further violated California Labor Code §§ 226.7 and the
26 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR
27 SUB-CLASS Members who were not provided a meal period, in accordance with the applicable
28

1 Wage Order, one additional hour of compensation at each employee's regular rate of pay for
2 each workday that a meal period was not provided.

3 91. As a proximate result of the aforementioned violations, PLAINTIFF and
4 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to
5 proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

6
7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE REQUIRED REST PERIODS**

9 **(Cal. Lab. Code §§ 226.7 & 512)**

10 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all**
11 **Defendants)**

12 92. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
14 paragraphs of this Complaint.

15 93. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were
16 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
17 Further, these employees were denied their first rest periods of at least ten (10) minutes for some
18 shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least ten
19 (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first, second
20 and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or
21 more. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not
22 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
23 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically
24 denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

25 94. DEFENDANT further violated California Labor Code §§ 226.7 and the
26 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR
27 SUB-CLASS Members who were not provided a rest period, in accordance with the applicable
28 Wage Order, one additional hour of compensation at each employee's regular rate of pay for
each workday that rest period was not provided.

95. As a proximate result of the aforementioned violations, PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

SIXTH CAUSE OF ACTION

FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRES EXPENSES

(Cal. Lab. Code §§ 2802)

(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all
Defendants)

96. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

97. Cal. Lab. Code § 2802 provides, in relevant part, that:

An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

98. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for required expenses incurred in the discharge of their job duties for DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not limited to, costs related to using their personal cellular phones all on behalf of and for the benefit of DEFENDANTS. Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by DEFENDANT to use their personal cell phones to respond to work related issues. DEFENDANT's uniform policy, practice and procedure was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their personal cellular phones for DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses were necessary to complete their principal job duties.

1 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this expectation.
2 Although these expenses were necessary expenses incurred by PLAINTIFF and the
3 CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify and
4 reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for these
5 expenses as an employer is required to do under the laws and regulations of California.

6 99. PLAINTIFF therefore demand reimbursement for expenditures or losses
7 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of
8 their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT, with
9 interest at the statutory rate and costs under Cal. Lab. Code § 2802.

10
11 **SEVENTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS**
13 **(Cal. Lab. Code § 226)**

14 **(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and**
15 **against all Defendants)**

16 100. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
17 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
18 paragraphs of this Complaint.

19 101. Cal. Labor Code § 226 provides that an employer must furnish employees with
20 an "accurate itemized" statement in writing showing:

- 21 a. Gross wages earned;
- 22 b. Total hours worked by the employee, except for any employee whose
23 compensation is solely based on a salary and who is exempt from payment of
24 overtime under subdivision (a) of Section 515 or any applicable order of the
25 Industrial Welfare Commission;
- 26 c. The number of piece rate units earned and any applicable piece rate if the
27 employee is paid on a piece-rate basis;
- 28 d. All deductions, provided that all deductions made on written orders of the
employee may be aggregated and shown as one item;

- e. Net wages earned;
- f. The inclusive dates of the period for which the employee is paid;
- g. The name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
- h. The name and address of the legal entity that is the employer; and
- i. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

102. When DEFENDANT did not accurately record PLAINTIFF's and other CALIFORNIA CLASS Members' missed meal and rest breaks and wages owed, DEFENDANT also failed to provide PLAINTIFF and the other members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to show, among other things, missed meal and rest periods and reporting time wages owed to PLAINTIFF and other CALIFORNIA CLASS Members. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her employees with an accurate itemized wage statement in writing showing, among other things, gross wages earned and all applicable hourly rates in effect during the pay period and the corresponding amount of time worked at each hourly rate. Aside from the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a result, from time to time DEFENDANT provided PLAINTIFF and the other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code § 226.

103. DEFENDANT knowingly and intentionally failed to comply with Cal. Labor Code § 226, causing injury and damages to the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs expended calculating the correct rates for the overtime worked and the amount of employment taxes which were not properly paid to state and federal tax authorities. These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of the CALIFORNIA

LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the CALIFORNIA LABOR SUB-CLASS herein).

EIGHTH CAUSE OF ACTION
FAILURE TO PAY WAGES WHEN DUE
(Cal. Lab. Code §§201, 202, 203)

(Alleged by PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and against all Defendants)

104. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

105. Cal. Lab. Code § 200 provides that:

As used in this article:(a) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, Commission basis, or other method of calculation. (b) "Labor" includes labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.

106. Cal. Lab. Code § 201 provides, in relevant part, that "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

107. Cal. Lab. Code § 202 provides, in relevant part, that:

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

mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting.

108. There was no definite term in PLAINTIFF's or any CALIFORNIA LABOR SUB-CLASS Members' employment contract.

109. Cal. Lab. Code § 203 provides:

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

110. The employment of PLAINTIFF and many CALIFORNIA LABOR SUB-CLASS Members terminated and DEFENDANT has not tendered payment of wages, to these employees who missed meal and rest breaks, as required by law.

111. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and the members of the CALIFORNIA LABOR SUB-CLASS whose employment has, PLAINTIFF demand up to thirty days of pay as penalty for not paying all wages due at time of termination for all employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS PERIOD, and demands an accounting and payment of all wages due, plus interest and statutory costs as allowed by law.

NINTH CAUSE OF ACTION

FAILURE TO PROVIDE SUITABLE SEATING

(Cal. Lab. Code §§1198 et seq. & California Code of Regulations, Title 8, Section 11070(14))

(Alleged by PLAINTIFF against all Defendants)

112. PLAINTIFF, and the other members of the AGGRIEVED EMPLOYEES, reallege and incorporate by this reference, as though fully set forth herein, all paragraphs of this Complaint.

113. California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order.

1 114. California Labor Code section 1198 requires that “. . . the standard conditions of
2 labor fixed by the commission shall be the . . . standard conditions of labor for employees. The
3 employment of any employee . . . under conditions of labor prohibited by the order is unlawful.
4 California Code of Regulations, Title 8, section 11070(14)(A) provides that "[a]ll working
5 employees shall be provided with suitable seats when the nature of the work reasonably permits
6 the use of seats."

7 115. California Code of Regulations, Title 8, section 11070(14)(B) provides that
8 "[w]hen employees are not engaged in the active duties of their employment and the nature of the
9 work requires standing, an adequate number of suitable seats shall be placed in reasonable
10 proximity to the work area and employees shall be permitted to use such seats when it does not
11 interfere with the performance of their duties."

12 116. DEFENDANT violated California Labor Code section 1198 and California Code
13 of Regulations, Title 8, section 11070(14) because PLAINTIFF and AGGRIEVED EMPLOYEES
14 members were not permitted to sit, even if they were not engaged in active duties. They were not
15 permitted to sit, even when it would not interfere with the performance of their duties, nor were
16 they provided with suitable seats.

17 117. PLAINTIFF and AGGRIEVED EMPLOYEES members are entitled to recover all
18 remedies available for violations of California Labor Code section 1198 and California Code of
19 Regulations, Title 8, section 11070(14)

20 118. Pursuant to the civil penalties provided for in California Labor Code sections
21 2699 (f) and (g), the State of California, PLAINTIFF and other aggrieved employees are entitled
22 to recover civil penalties of one hundred dollars (\$100) for each aggrieved employee per pay
23 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per
24 pay period for each subsequent violation, plus costs and attorneys' fees for violation of
25 California Labor Code section 1198.

26 //

27 //

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS pray for a judgment against each Defendants, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

- a. That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- c. An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld from compensation due to PLAINTIFF and the other members of the CALIFORNIA CLASS; and
- d. Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANTS' violations due to PLAINTIFF and to the other members of the CALIFORNIA CLASS.

2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- a. That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- b. Compensatory damages, according to proof at trial, including compensatory damages for minimum wages, reporting time wages, unreimbursed expenses, and other compensation due to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- c. Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;
- d. The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay

period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
an award of costs for violation of Cal. Lab. Code § 226; and

- e. The wages of all terminated employees from the CALIFORNIA LABOR SUB-
CLASS as a penalty from the due date thereof at the same rate until paid or until
an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

3. On all claims:

- a. An award of interest, including prejudgment interest at the legal rate;
b. Such other and further relief as the Court deems just and equitable; and
c. An award of penalties, attorneys' fees and costs of suit, as allowable under the
law, including, but not limited to, pursuant to Labor Code § 218.5, § 226, §1194
and/or §1197.

DATED: _____, 2020

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay
Attorney for Plaintiffs

DEMAND FOR A JURY TRIAL

PLAINTIFFS demand a jury trial on issues triable to a jury.

DATED: _____, 2020

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay
Attorney for Plaintiff

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JHK Hospitality, LLC
c/o James H. Kwon
25501 The Old Road
Stevenson Ranch, CA 91381



9590 9402 4876 9032 4233 07

2. Article Number (Transfer from service label)

7019 2280 0002 0097 8029

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

Becky Jones

C. Date of Delivery

2/20/20

D. Is delivery address different from item 1?
If YES, enter delivery address below:☐ Yes
☐ No

Khodra 2-12-20

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

II Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Rec.

EXHIBIT 3

WARNING: Do not accept this document unless you can see a full watermark and visible fibers from both sides.

Zakay Law Group, APLC

3990 Old Town Ave. Ste C204
San Diego, CA 92110

001035

Date

2/12/2020

16-3776/1220
830

PAY
TO THE
ORDER OF

LW D.A.

\$ 75⁰⁰

Seventy Five

00/100

DOLLARS



First Citizens Bank

FOR

26001 PAGA Fee

Security features from
Indusnet, Inc. on back

EXHIBIT 4

Tesla Stone

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Friday, July 17, 2020 4:27 PM
To: Tesla Stone
Subject: Thank you for your Court Complaint Submission

07/17/2020 04:26:50 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 5

EXHIBIT 6

Activities Export

09/07/2021

3:42 PM

Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
02/12/2020	\$	PAGA Fee ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	75.00	-	75.00
04/24/2020	\$	Filing Fee - Complaint ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	1,653.85	-	1,653.85
07/16/2020	\$	Service Charge - Complaint ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	107.15	-	107.15
09/25/2020	\$	Photocopies and Fax Charges - ISC Report ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	5.50	-	5.50
12/11/2020	\$	CaseAnywhere Fee ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	88.80	-	88.80
01/20/2021	\$	LA CourtConnect - Telephonic Appearance ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	15.00	-	15.00
03/11/2021	\$	CaseAnywhere - System Access Fee ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	120.00	-	120.00
04/15/2021	\$	Mediation Fees ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	950.00	-	950.00
04/19/2021	\$	Fedex Next Day Delivery - JAMS checks ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	60.91	-	60.91
					0.00h		\$0.00 0.0h	\$3,359.89 0.0h

Activities Export

09/07/2021

3:42 PM

Date ▲	Type	Description	Matter	User	Hours	Rate (\$/hr)	Non-billable (\$)	Billable (\$)
05/13/2021	\$	One Legal - CMS ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	16.68	-	16.68
06/02/2021	\$	LA Court Connect Fee ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	15.00	-	15.00
06/17/2021	\$	CaseAnywhere System Access Fee ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	132.00	-	132.00
09/07/2021	\$	CaseAnywhere Access Fee ● Unbilled	26001-Khodra Jonathan Khodra v. JHK Hospitality, LLC	Shani Zakay	-	120.00	-	120.00
					0.00h		\$0.00 0.0h	\$3,359.89 0.0h

JCL Law Firm

Transaction Report

All Dates

DATE	TRANSACTION TYPE	NUM	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT	BALANCE
Khodra (002-011)								
08/31/2020	Journal Entry	June-Aug 2020 Postage		Copies for June-Aug 2020	Client costs deferred	-Split-	1.20	1.20
09/30/2020	Journal Entry	Sept. 2020 Postage		Copies for Sept. 2020	Client costs deferred	-Split-	0.10	1.30
10/06/2020	Expense		LA Court Connect	Remote Tel. Appearance	Client costs deferred	Chase Card 7349	15.00	16.30
10/07/2020	Expense		Stanley Mosk Court		Client costs deferred	Chase Card 7349	6.00	22.30
11/07/2020	Check	2319	Knox Attorney Services, Inc.	Invoice No. 4327694 Re: Filing Fee: Declaration of Shani O. Zakay and (Proposed) Order for Dismissal of Class Claims Without Prejudice	Client costs deferred	US Bank-Checking - 4270	98.75	121.05
11/07/2020	Check	2319	Knox Attorney Services, Inc.	Invoice No. 4327693 Re: Report: Delivery for US Courthouse - Spring St	Client costs deferred	US Bank-Checking - 4270	84.75	205.80
11/30/2020	Journal Entry	Nov. 2020 Postage		Copies for Nov. 2020	Client costs deferred	-Split-	1.10	206.90
12/05/2020	Expense		Case Anywhere	Filing Fee - Invoice No. 205770	Client costs deferred	Chase Card 7349	130.80	337.70
12/30/2020	Expense		One Legal LLC	One Legal Order Number: 15674422 - Filing Fee: Case Management Statement; Proof of Purchase	Client costs deferred	Chase Card 7349	14.15	351.85
12/31/2020	Journal Entry	Dec. 2020 Postage		Copies for Dec. 2020	Client costs deferred	-Split-	0.10	351.95
01/14/2021	Expense		One Legal LLC	One Legal Order Number: 15739313 - Filing Fee: Notice of Posting of Jury Fees, Proof of Service	Client costs deferred	Chase Card 7349	171.15	523.10
01/31/2021	Journal Entry	Jan. 2021 Postage		Copies for Jan. 2021	Client costs deferred	-Split-	0.50	523.60
03/11/2021	Expense		Case Anywhere	Invoice No. 213905	Client costs deferred	Chase Card 7349	144.00	667.60
03/31/2021	Journal Entry	Mar. 2021 Postage		Copies for Mar. 2021	Client costs deferred	-Split-	2.25	669.85
04/09/2021	Check	2437	JAMS	Invoice #5552950 - Mediation	Client costs deferred	US Bank-Checking - 4270	1,550.00	2,219.85
04/30/2021	Journal Entry	Apr. 2022 Postage		Copies for Apr. 2021	Client costs deferred	-Split-	0.10	2,219.95
06/09/2021	Expense		Case Anywhere	Invoice No. 222266	Client costs deferred	Chase Card 7349	120.00	2,339.95
06/26/2021	Check	2505	Zakay Law Group	JAMS Refund	Client costs deferred	US Bank-Checking - 4270	600.00	2,939.95
06/28/2021	Deposit		Khodra (002-011)	Jams Refund	Client costs deferred	US Bank-Checking - 4270	-1,200.00	1,739.95
06/30/2021	Journal Entry	June 2021		Copies for June 2021	Client costs	-Split-	0.20	1,740.15

JCL Law Firm

Transaction Report

All Dates

DATE	TRANSACTION TYPE	NUM	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT	BALANCE
09/03/2021	Bill	Postage	Case Anywhere	Filing Fee - Invoice No. 230597	deferred Client costs deferred	Accounts Payable	120.00	1,860.15
Total for Khodra (002-011)							\$1,860.15	
TOTAL							\$1,860.15	

EXHIBIT 7

Zakay Law Group, APC
3990 Old Town Ave. Suite C204
San Diego, California 92110
Telephone: (619) 255-9047
Fax: (858) 404-9203

1. Firm Practice Areas:

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation, Business Litigation, Corporate/Business General Counsel Advice.

2. Attorney Shani O. Zakay Biography:

• **PRACITCE AREAS**

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation, Business Litigation, Corporate/Business General Counsel Advice.

• **BAR ADMISSIONS, MEMBERSHIPS & BOARDS**

State of California (all courts)
United States District Court of California (all courts)
United States District Court of Indiana for the Northern District
United States Court of Appeals for the 9th Circuit

• **PROFESSIONAL EXPERIENCE**

ZAKAY LAW GROUP, APLC, San Diego, CA
Founder, April 2018

SILLDORF LAW, LLP, San Diego, CA (now known as Berding & Weil)
Partner, January 2012 – March 2018

• **EDUCATION**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA

Juris Doctor, *magna cum laude*, April 2011

Honors: Dean's List: Spring 2009, Fall 2009, Spring 2010, Fall 2010, Spring 2011.

Academic Achievement Awards: Advanced Legal Research, Constitutional Law II, Criminal Procedure, Insurance Law & Litigation, Law Office Technologies, Property II, Products Liability, Trusts & Estates.

Activities: Associate Editor, *California Western Law Review*
Legal Skills Honor Instructor for Professor Leslie Culver
Vice President, Jewish Student Union

SAN DIEGO STATE UNIVERSITY, San Diego, CA

Bachelor of Science, Business Administration, Management, *cum laude*, May 2008

Honors: Dean's List: Spring 2007 and Fall 2007

- **COMMUNITY SERVICE**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA
Spring 2016, 2018
Moot Court Judge

COMMUNITY LAW PROJECT, San Diego, CA
October 2018 – Present
Volunteer Attorney on Employment Matters

3. **Attorney Jackland K. Hom Biography:**

- **PRACTICE AREAS**

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation.

- **BAR ADMISSIONS, MEMBERSHIPS & BOARDS**

State of California (all courts)
United States District Courts of California (all courts)

- **PROFESSIONAL EXPERIENCE**

ZAKAY LAW GROUP, APLC, San Diego, CA
Associate, January 2021 - present

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP, San Diego, CA
Associate, November 2019 – September 2020

- **EDUCATION**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA
Juris Doctor, April 2019

Honors: Dean's List: Fall 2017, Spring 2018.

Academic Achievement Awards: Advanced Prosecution Function.

Activities: Senior Editor, *California Western Law Review*
President, Asian Pacific American Law Students Association

UNIVERSITY OF CALIFORNIA, RIVERSIDE, Riverside, CA
Bachelor of Arts: Political Science, English Literature, June 2015
Honors: Dean's List

4. Class Action & Representative Cases:

1. Hubscher v. Bodyspirit, LLC

Court	San Diego
Case No.	37-2016-00021261-CU-OE-CTL
Nature	Independent Contractor Misclassification
Status	Settled

2. Henry v. InMotion Entertainment Group, LLC

Court	San Francisco
Case No.	CGC-18-565643
Nature	Meal/Rest Break claims and overtime and regular rate claims
Status	Settled

3. Moore v. Zirx Transportation

Court	San Francisco
Case No.	CGC-18-566655
Nature	Independent Contractor Misclassification
Status	Settled

4. Pasallo v. GSG Protective Services

Court	San Diego
Case No.	37-2018-00037611-CU-OE-CTL
Nature	Meal/Rest Break claims
Status	Settled

5. Villaroman v. C.C.H.C.

Court	Orange County
Case No.	30-2018-01013128-CU-OE-CXC
Nature	Meal/Rest Break claims
Status	Settled

6. Flores v. Plastic Express

Court	Los Angeles
Case No.	BC719071
Nature	Meal/Rest Break and minimum wage claims
Status	Settled

7. Tressler v. Spoonful Management

Court	Los Angeles
Case No.	BC719405
Nature	Meal/Rest Break claims
Status	Settled

8. Leymaster v. Toms Sierra Company, Inc.

Court	Placer
Case No.	SCV0041735
Nature	Meal/Rest Break claims and overtime and regular rate claims
Status	Settled

9. Murphy v. Rockler Retailer Group, Inc.

Court	Sacramento
Case No.	34-2018-00241374
Nature	Overtime and regular rate claims and wrongful termination
Status	Settled

10. Bruemmer v. Tempur Retail Stores, LLC.

Court	Marin
Case No.	CIV1803646
Nature	Overtime and regular rate claims and wrongful termination
Status	Settled

11. Christina Cummings v. G6 Hospitality, LLC

Court	San Diego
Case No.	37-2018-00056207-CU-OE-CTL 19CV122 GPC LL
Nature	Overtime and Minimum Wage claims and Meal and Rest Breaks
Status	Settled

12. Nicolai Laguatan v. Prevent LSS

Court	San Diego
Case No.	37-2018-00057434-CU-OE-CTL
Nature	Overtime and Minimum Wage claims and Meal and Rest Breaks
Status	Settled

13. Lisa Ramirez v. Carefusion Resources, LLC

Court	San Diego
Case No.	37-2018-00058078-CU-OE-CTL 3:18-CV-02852-BEN-MSB
Nature	Overtime and Meal and Rest Breaks
Status	Settled

14. Charles Ornelas v. C&A Transportation Services

Court	San Diego
Case No.	37-2018-00061289-CU-OE-CTL
Nature	Minimum Wage and Meal/Rest Break claims
Status	Settled

15. Luz Marin v. California Marine Cleaning

Court	San Diego
Case No.	37-2018-00063483-CU-OE-CTL
Nature	Meal Break claims
Status	Settled

16. Christian Van Cleave v. Sunrise Senior Living Management

Court	San Diego
Case No.	37-2018-00061960-CU-OE-CTL 19CV0044BEN NLS
Nature	Regular rate and meal premium miscalculation
Status	Settled

17. Heather McIntyre v. JRR Enterprises

Court	Sacramento
Case No.	34-2019-00251220
Nature	Overtime and Meal and Rest Periods
Status	Settled

18. Lori Phipps v. Soapy Joe's

Court	San Diego
Case No.	37-2019-00017673-CU-OE-CTL
Nature	Tip Polling and Meal and Rest Periods
Status	Settled

19. Heather Broughton v. NFG San Francisco, LLC

Court	San Francisco
Case No.	CGC-19-574657
Nature	Meal and Rest Breaks
Status	Settled

20. Marcos Antonios v. Interface Rehab, LLC

Court	Orange County
Case No.	30-2019-01067547-CU-OE-CXC
Nature	Meal and Rest Breaks and Reporting Time Violations
Status	Settled

21. Tiffany Rodriguez v. Circle K

Court	Riverside
Case No.	RIC 1901407 5:19-cv-00469
Nature	Overtime Wage and Meal/Rest Break claims
Status	Settled

22. Derik Scott et al. v. Ultimate Performance

Court	Los Angeles
Case No.	19STCV22823
Nature	Piece Rate Pay violations
Status	Settled

23. Raymond Frazier v. Asa Carlton

Court	San Diego
Case No.	37-2019-00036147-CU-OE-CTL
Nature	Overtime Wages
Status	Settled

24. John Moreno v. Da Kitchen

Court	San Diego
Case No.	37-2019-00024885-CU-OE-CTL
Nature	Overtime Wage and Meal/Rest Break claims
Status	Settled

25. Penny Lane v. International Aero Clubs, LLC

Court	San Diego
Case No.	37-2019-00021793-CU-OE-CTL
Nature	Meal and Rest Breaks and Regular Rate Miscalculation
Status	Settled

26. Amber Price v. DMSD Restaurants

Court	San Diego
Case No.	37-2019-00024062-CU-OE-CTL
Nature	Meal and Rest Break violations
Status	Settled

27. Jamaal Johnson v. Volt Management Corp

Court	Los Angeles
Case No.	19STCV16466
Nature	On Duty Meal Break violations
Status	Settled

28. Ezzat Menias v. All American Private Security

Court	Orange County
Case No.	30-2019-01085120-CU-OE-CXC
Nature	On Duty Meal Break violations
Status	Settled

29. Mark Connor v. Ascendant Marketing

Court	San Diego
Case No.	37-2019-00026864-CU-OE-CTL
Nature	Minimum Wage violations
Status	Settled

30. Niki Nunez v. Home Depot

Court	San Joaquin
Case No.	STK-CV-406-2019-6656
Nature	Overtime Wages violations
Status	Settled

31. Alma Salazar v. Frontier Toyota

Court	Los Angeles
Case No.	19STCV20382
Nature	Rest Break violations
Status	Settled

32. Josefina Garces v. Kar Auction Services

Court	Los Angeles
Case No.	19STCV28489
Nature	Rest Break violations
Status	Settled

33. Madison Weiss v. Niznik Behavior

Court	San Diego
Case No.	37-2019-00039441-CU-OE-CTL
Nature	Meal and Rest Break violations
Status	Settled

34. Jimmy Mack v. ERM Enterprises

Court	Sacramento
Case No.	2019-00262259
Nature	Meal and Rest Break violations
Status	Settled

35. Josefina Garces v. DriverDo

Court	Los Angeles
Case No.	19STCV32773
Nature	Independent Contractor Misclassification
Status	In Litigation

36. Perseus Porras v. Tantalum Restaurant

Court	Los Angeles
Case No.	19STCV31015
Nature	Unpaid Wages + Missed Meal/Rest Breaks
Status	Settled

37. Dorcena Deutsch v. Scripps

Court	San Diego
Case No.	37-2019-00036333-CU-OE-CTL
Nature	Regular Rate Miscalculation for Nurses
Status	Settled

38. Josalyn O'Quinn v. Laugh Factory

Court	Los Angeles
Case No.	19STCV28155
Nature	Regular Rate Miscalculation, Wage Theft
Status	In Litigation

39. Nicholas Leon v. Miller Event Management

Court	San Luis Obispo
Case No.	19CV-0435
Nature	Meal/Rest Breaks, Reporting Time, 2802
Status	Settled

40. Aaris Watts v. TRL Systems

Court	Orange County
Case No.	30-2019-01102457-CU-OE-CXC
Nature	Meal/Rest Breaks, Reporting Time
Status	In Litigation

41. Faith Smith v. Island Pizza

Court	Contra Costa
Case No.	MSC19-01654
Nature	Meal/Rest Breaks, 226, 2802
Status	Settled

42. Johnathan Roa v. Otay Mesa Sales

Court	San Diego
Case No.	37-2019-00057735-CU-OE-CTL
Nature	Meal/Rest Breaks, 226
Status	In Litigation

43. Sabrina Ivon v. Sinclair Television of California

Court	Humboldt
Case No.	DR190699
Nature	Vaquero
Status	In Litigation

44. Jonathan Mitchell v. Mack Trucking

Court	San Bernardino
Case No.	CIVDS1928334
Nature	Independent Contractor Misclassification
Status	In Litigation

45. Curtis Edwards v. Resolve Group

Court	San Francisco
Case No.	CGC-19-579095
Nature	Meal & Rest Breaks + 2802
Status	In Litigation

46. Elena Kiseleva v. TotalMed Staffing, Inc

Court	Santa Clara
Case No.	19CV354635
Nature	Overtime + Meal and Rest Breaks
Status	Settled

47. Richard Jer Vang v. Bridge Property Management

Court	Alameda
Judge	Winfred Smith
Nature	Off the clock work, regular rate miscalc.
Status	Settled

48. Madison Marrero v. Stat Med

Court	Alameda
Case No.	HG19043214
Nature	Unpaid Overtime + Meal/Rest Breaks
Status	In Litigation

49. Brian Reyes v. Stowasser Buick-GMC

Court	Santa Barbara
Case No.	19CV06183
Nature	Vaquero
Status	Settled

50. Erik Foss v. Anderson Hospitality, Inc.

Court	Shasta
Case No.	195317
OPC	Wood Smith – Andrew Kleiner
Nature	Meal and Rest Breaks, Regular Rate
Status	In Litigation

51. Griselda Duran v. EmployBridge

Court	Kern
Case No.	BCV-20-101583
Nature	Regular Rate, 226
Status	In Litigation

52. Luis Rendon v. Healthcare Investments, Inc.

Court	Los Angeles
Case No.	20STCV39775
Nature	Meal and Rest Breaks
Status	In Litigation

53. Richard Melead v. TVI, Inc.

Court	Orange
Case No.	30-2020-01140887-CU-OE-CXC
Nature	Regular Rate, 226 (Magadia)
Status	In Litigation

54. David Spencer v. Asset Gas, Inc.

Court	San Diego
Case No.	37-2020-00024642-CU-OE-CTL
Nature	Meal and Rest Breaks
Status	Settled

55. Thomas Haven v. California Vocations, Inc.

Court	Butte
Case No.	20CV01514
Nature	Regular Rate + Meal and Rest Breaks
Status	In Litigation

56. Estefania Renteria v. Love's Country

Court	Kern
Case No.	BCV-20-101260
Nature	226
Status	In Litigation

57. Rachel Latin v. OneMain General Services Corp.

Court	Stanislaus
Case No.	CV-20-002498
Nature	Dart + Magadia
Status	In Litigation

58. Kalaina Dula v. 2 Kings Gaming, Inc.

Court	Merced
Case No.	#20CV-02289
Nature	Meal and Rest Breaks
Status	In Litigation

59. Jie Xu v. HT Multinational

Court	San Bernardino
Case No.	CIV-DS2015679
Nature	Exempt Misclassification
Status	In Litigation

60. Yvette Molina v. Hawaiian Airlines

Court	Los Angeles
Case No.	20STCV28079
Nature	Meal and Rest + Magadia
Status	In Litigation

61. Reinald Pillsbury v. T & T Restaurants CA

Court	Del Norte
Case No.	CVUJ-2020-1214
Nature	Meal/Rest Breaks + Regular Rate
Status	Settled

62. Luis de Jesus v. Guardian Angel Home Care

Court	San Diego
Case No.	37-2020-00021049-CU-OE-CTL
Nature	Piece-Rate
Status	In Litigation

63. Charles Sandlin v. Secure Nursing Services, Inc.

Court	Los Angeles
Case No.	20STCV25675
Nature	Regular Rate
Status	Settled

64. Gabriel Mendez v. Bondz, Inc.

Court	San Joaquin
Case No.	STK-CV-UOE-2020-0007486
Nature	Piece-Rate
Status	In Litigation

65. James Conley v. Siskiyou Forest Products

Court	Shasta
Case No.	195819
Nature	Regular Rate and Meal/Rest Breaks + 226
Status	In Litigation

66. Alex Castellanos v. Southwest Patrol

Court	San Diego
Case No.	37-2020-00024905-CU-OE-CTL
Nature	Augutus
Status	In Litigation

67. Damien Hampton v. Pegasus Investors

Court	Sacramento
Case No.	34-2020-00281394-CU-BT-GDS
Nature	Unlawful Housing
Status	In Litigation

68. Tamara Perkins v. FSEI

Court	Sacramento
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Case No.	34-2020-00287054
Nature	Regular Rate
Status	In Litigation

69. Rodney Stovall v. Javelin Logistics Company

Court	Alameda
Case No.	RG20075705
Nature	Meal / Rest Breaks
Status	In Litigation

70. Gabrielle Boyd v. Bluestone Lane Holdings, LLC

Court	San Francisco
Case No.	CGC-20-585787
Nature	Tip Pooling ; Magadia
Status	In Litigation

71. Elias Kaser v. Aviation Consultants, Inc.

Court	Orange County
Case No.	
Nature	Meal / Rest Breaks, Regular Rate
Status	Settled

72. Christopher Chacon v. Panda Motors, Inc.

Court	San Bernardino
Case No.	CIV DS2022220
Nature	Regular Rate
Status	In Litigation

73. Willie Lang v. Pathways

Court	San Diego
Case No.	37-2019-00049969
Nature	Off the Clock
Status	In Litigation

74. Norma Reyes v. Simpson Garden Grove, Inc.

Court	Orange
Case No.	30-2020-0117564-CU-OE-CJC
Nature	Meal / Rest Breaks
Status	Settled

75. Daniel Jacobs v. Rush Media Company

Court	Los Angeles
Case No.	20STCV32350
Nature	Independent Contractor Misclassification
Status	In Litigation

76. Luis Ledesma v. TVJ Sons I, Inc.

Court	Santa Barbara
Case No.	20CV03573
Nature	Vaquero
Status	In Litigation

77. Kevin Cianfarani v. Career Strategies Temporary, Inc. (MPI)

Court	Los Angeles
Case No.	
Nature	Off the clock work
Status	Settled

78. Hector Avitia v. LAZ Parking

Court	San Diego
Case No	37-2020-00030133-CU-OE-CTL
Nature	Magadia + Augustus
Status	In Litigation

79. Sukhraj Kaur v. ACES 2020, LLC

Court	Contra Costa
Case No.	C20-02482
Nature	Meal/Rest Breaks, 2802
Status	In Litigation

80. Boaventura v. Rei Do Gado

Court	Contra Costa
Case No.	37-2020-00032342-CU-OE-CTL
Nature	Meal/Rest Breaks, 2802
Status	In Litigation

81. James Rachal v. ELG Metals, Inc.

Court	Los Angeles
Case No.	20STCV45861
Nature	Meal/Rest Breaks, Regular Rate
Status	In Litigation

82. Evelyn Nwansi v. Princeton Healthcare Center, LLC

Court	Alameda
Case No.	RG20083664
Nature	Meal/Rest Breaks, Unpaid Overtime
Status	In Litigation

83. Michael Ashlock v. Advantis Medical Staffing

Court	San Diego
Case No.	37-2020-00022305-CU-OE-CTL
Nature	Regular Rate
Status	Settled

84. Moe Popal v. Ameriprise Auto & Home Insurance

Court	Riverside
Case No.	RIC2000006
Nature	Exempt/Non-Exempt Misclassification
Status	Settled

85. Mark Williams v. Web to Door

Court	San Francisco
Case No.	
Nature	Meal and Rest Break + Regular Rate
Status	In Litigation

86. Jessica Barackman v. Teaz N Pleaz, Inc.

Court	El Dorado
Case No.	SC20200179
Nature	Meal/Rest Breaks, Seating
Status	In Litigation

87. Nicolas Neutall v. Urban Alchemy

Court	San Francisco
Case No.	CGC-20-588622
Nature	Meal/Rest Breaks, Unpaid Overtime
Status	In Litigation