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8 Attorneys for: Plaintiff CARMEN PATRICIA ALEMAN, individually and on
 9 behalf of other persons similarly situated and similarly aggrieved
 10 employees

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

13 CARMEN PATRICIA ALEMAN, individually
 14 and on behalf of other persons similarly
 15 situated and similarly aggrieved employees,

16 Plaintiffs,

17 v.

18
 19 LOTERIA GRILL RESTAURANT GROUP,
 20 LLC, an active California Limited Liability
 21 Company; and DOES 1 through 10,

22 Defendants.

Case No.: 22STCV12858

Assigned to: Hon. Stuart M. Rice
 Department: SS-1
 Complaint Filed: April 15, 2022

**FIRST AMENDED COMPLAINT –
 CLASS AND REPRESENTATIVE
 ACTION**

1. Failure to Provide Meal Periods;
2. Failure to Provide Paid Rest Periods;
3. Failure to Pay Wages;
4. Failure to Timely Pay Wages at Termination/Separation;
5. Failure to Provide Compliant Itemized Wage Statements;
6. Failure to Reimburse Business Expenses;
7. Violation of Unfair Business Practices Act – Bus. & Prof. Code

Plaintiff CARMEN PATRICIA ALEMAN ("Plaintiff"), on behalf of herself and all others similarly situated, based on information and belief, complains and alleges:

I.

INTRODUCTION

1. This class and representative action lawsuit arises out of the failure of Defendant LOTERIA GRILL RESTAURANT GROUP, LLC, (referred to herein collectively with DOE defendants as "Defendants") to provide meal periods at the proper intervals, to provide rest periods at the proper intervals, to pay all wages owed including overtime and double time, to timely pay wages after the close of each payroll period, to provide accurate and legally compliant wage statements, to pay all wages owed to terminated or separated employees in a timely manner, and to reimburse employee business expenses.
2. Defendants employed Plaintiff and other employees during the applicable time period, utilizing consistent policies and procedures in violation of Labor Code §200, *et seq.*, Labor Code §500, *et seq.*, Labor Code §1194, *et seq.*, Labor Code §2800, and the applicable Wage Orders issued by the California Industrial Welfare Commission.
3. Defendants are engaged in the business of restaurant and catering services. Plaintiff was hired by Defendants on or about 2016 and was employed by Defendants until Plaintiff's separation on or about June 17, 2021. At all times during her employment, Plaintiff had a non-exempt classification. Plaintiff was working at Defendants' restaurant located at 4228 West Pico Boulevard in Los Angeles, California 90019.
4. At the time of her termination, Plaintiff was not paid all her wages.

- 1 5. Plaintiff was also deprived of lawful meal and rest periods, not paid all wages
2 including overtime she was entitled to, and failed to receive accurate and
3 legally compliant itemized wage statements.
- 4 6. Defendants had a consistent policy of not properly calculating and/or not
5 paying wages for all hours worked, including overtime wages as applicable.
6 Defendants had a consistent policy of failing to timely pay wages owed after
7 the close of each payroll period.
- 8 7. Defendants had a consistent policy of requiring their employees, including
9 Plaintiff, to work through meal periods or work without a meal period for at
10 least five (5) hours of a shift and failing to pay such employees one (1) hour of
11 pay at the employees' regular rate of compensation for each workday that the
12 meal period was not provided or as required by California state wage and hour
13 laws.
- 14 8. Defendants had a consistent policy of failing to allow their employees,
15 including Plaintiff, rest periods for at least ten (10) minutes per four (4) hours,
16 or a major fraction, worked, and failing to pay such employees one (1) hour of
17 pay at their regular rate of compensation for each workday that the rest period
18 is not provided, or other compensation, as required by California state and
19 wage and hour laws.
- 20 9. Defendants knowingly provided inaccurate wage statements to their
21 employees, including Plaintiff, that did not correctly include the correct wages,
22 including compensation for meal periods not provided and rest period not
23 authorized or permitted as required by California state wage and hour laws.
- 24 10. Defendants had a consistent policy of failing to pay their employees, including
25 Plaintiff, all wages due at the termination or separation, in violation of
26 California state wage and hour laws.

- 1 11. Defendants had a consistent policy of failing to reimburse their employees,
2 including Plaintiff, for all business expenses incurred in the discharge of their
3 duties.
- 4 12. Plaintiff, on behalf of herself and all Class Members, brings this action
5 pursuant to Lab. Code §§ 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194,
6 1194.2, 2800, and 2802 seeking unpaid wages, reimbursement, penalties,
7 equitable relief, and reasonable attorneys' fees and costs.
- 8 13. Plaintiff, on behalf of herself and the putative class members, also brings
9 this action pursuant to Bus. & Prof. Code §§ 17200, *et seq.*, seeking injunctive
10 relief, restitution, and disgorgement of all benefits obtained by Defendants as a
11 result of Labor Code and applicable Wage Order violations.
- 12 14. Plaintiff, on behalf of the State of California, himself, and other similarly
13 aggrieved employees, also brings this action pursuant to California Private
14 Attorney General Act ("PAGA"), Cal. Lab. Code §2698, *et seq.* seeking unpaid
15 wages and other compensation, penalties, and reasonable attorneys' fees and
16 costs.

17 II.

18 JURISDICTION AND VENUE

- 19 15. Venue as to each defendant is proper in this judicial district, pursuant to Code
20 of Civil Procedure § 395. The County of Los Angeles is the proper venue,
21 because work for Defendants was performed by Plaintiff and other class
22 members in the County of Los Angeles and the legal obligations owed by
23 Defendants to Plaintiff and other class members were breached in the County
24 of Los Angeles.
- 25 16. The California Superior Court has jurisdiction in this matter, because Plaintiff is
26 a resident of California, Defendants are qualified to do business in California,
27 and regularly conduct business in California.
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III.

THE PARTIES

17. Plaintiff CARMEN PATRICIA ALEMAN is a resident of the State of California, and was employed by Defendants in Los Angeles County from on or about 2016 through on or about June 17, 2021.

18. Defendant LOTERIA GRILL RESTAURANT GROUP, LLC was an active California Limited Liability Company at all times during the claims of Plaintiff and the putative class, was doing business in California, and was headquartered in California.

19. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as Does 1 through 10, but she is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will amend this First Amended Complaint to allege their true names and capacities when ascertained.

20. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

IV.

GENERAL ALLEGATIONS

21. At all times relevant here and as set forth in the following paragraphs of this First Amended Complaint, Defendants employed more than 100 people; and Plaintiff and each member of the putative class was employed by Defendants, and each of them, in the State of California.

1 22. The employees of Defendants have not been provided: uninterrupted thirty-
2 minute meal periods for work periods of more than five (5) hours per day;
3 second uninterrupted thirty-minute meal periods for work periods of more
4 than ten (10) hours per day; and have not been permitted to take ten-minute
5 (10) rest periods for work periods of four (4) hours or major fractions, pursuant
6 to the Labor Code, and applicable IWC Wage Orders.

7 23. Defendants failed to properly compute and pay employees wages owed for all
8 hours worked, including overtime hours as applicable. Defendants to timely
9 pay wages after the close of each payroll period.

10 24. Defendants failed to pay Plaintiff and the members of her putative class upon
11 separation the wages earned and unpaid at the time of discharge.

12 25. Defendants failed to provide Plaintiff and the putative members of her class, at
13 the time of each payment of wages, an accurate itemized statement in writing,
14 showing the gross wages earned, including premium wages owed for failing to
15 provide meal and/or rest periods at the proper intervals.

16 26. Defendants failed to fully reimburse Plaintiff and putative members of her class
17 for all their business-related expenditures. In violation of the Labor Code,
18 Plaintiff and putative members of her class did not receive indemnification for
19 all business-related expenditures.

20 27. Plaintiff asserts claims for relief on behalf of herself and other similarly situated
21 persons as a class action pursuant to Code of Civil Procedure § 382. Plaintiff
22 and all members of her putative class are described below with specificity and
23 fall in several categories of subclasses whose rights have been violated under
24 the law. Defendants have made no effort as of the filing of this Complaint to
25 correct or remedy the violations of law specified here.

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V.

CLASS ACTION ALLEGATIONS

28. Plaintiff brings this action on behalf of herself and all other employees of Defendants who are similarly-situated persons as a class action pursuant to California Code of Civil Procedure § 382. There is a well-defined common interest by and among Plaintiff and the putative class members, and it is impractical to bring all those individuals before the court under separate, different and repetitive actions. Plaintiff also reserves the right to amend or modify the class descriptions set forth below in greater specificity or clarity if required in the future in accordance with California Rules of Court, rule 3.765 (b). The class which Plaintiff seeks to represent is composed of and defined as follows:

“Plaintiff Class” – All of Defendants’ current and former non-exempt employees who worked for Defendants in California, during the four years before the filing of the Complaint through the time of class certification.

29. Plaintiff seeks to certify the following subclasses of employees:

a) “Meal Period Subclass” – All members of Plaintiff Class who worked each period exceeding five (5) hours without an uninterrupted, off duty, thirty (30) minute meal period and/or periods in excess of ten (10) hours without a second uninterrupted, off duty, thirty (30) minute meal periods; and were not provided compensation of one hour’s pay at the employee’s regular rate for each day that a meal period was not provided.

b) “Rest Period Subclass” – All members of Plaintiff Class who worked periods of four (4) hours or major fraction thereof without a duty free rest period of at least 10-minutes and who were not compensated one

hour's pay at the employee's regular rate for each day that a rest period was not permitted.

- c) "Unpaid Wage Subclass" – All members of Plaintiff Class who were not paid their minimum/actual wages, including the time that was unlawfully considered by Defendants as off-the-clock, as well as overtime wages for hours worked in excess of eight hours per day at the one and a half rate or at a double time rate as applicable.
- d) "Late Wages Subclass" – All members of Plaintiff Class who did not timely receive earned wages after the close of designated payroll periods.
- e) "Waiting Time Subclass" – All members of Plaintiff Class to whom Defendants failed to pay all wages due to them upon termination or resignation under Labor Code §§ 201-203.
- f) "Wage Statement Subclass" – All members of Plaintiff Class to whom Defendants improperly failed to provide accurate and legally compliant itemized wage statements under Labor Code §§ 226.
- g) "Expense Reimbursement Subclass" – All members of Plaintiff Class to whom Defendants failed to fully reimburse employee business expenses as required by Labor Code §2802.
- h) "UCL Subclass" – All members of the Meal Period, Rest Period, Unpaid Wage, Late Wages, Waiting Time, Wage Statement, and Expense Reimbursement Subclasses who were subject to unlawful, illegal, unfair and/or deceptive business acts and practices by Defendants and are entitled to disgorgement and restitution of unpaid wages.

30. There is a well-defined community of interest among many persons who comprise a readily ascertainable class:

- 1 a) Numerosity -The potential members of the Class and Subclasses as
2 defined here are so numerous that the individual joinder of all of them as
3 named plaintiffs is impracticable. The number of members of the Class
4 and Subclasses is unknown to Plaintiff. It is however estimated that the
5 members are more than 100 individuals, and their identities may readily
6 be ascertained from Defendants' records.
- 7 b) Typicality – The claims of Plaintiff are typical of the claims of all
8 members of the Class and Subclasses, who sustained similar damages
9 arising out of Defendants' common course of conduct in violation of law
10 as alleged.
- 11 c) Ascertainable Class – The proposed Class and Subclasses are
12 ascertainable as the members can readily be identified and located based
13 on the Defendants' payroll and personnel records.
- 14 d) Adequacy – Plaintiff is an adequate representative of the Class and
15 Subclasses: Plaintiff will fairly protect the interests of the members, she
16 has no interest adverse to the members, and she will vigorously pursue
17 this lawsuit on behalf of all the members of the Class and Subclasses.
18 Plaintiff's attorneys are competent, skilled and experienced in litigating
19 large employment law class actions.
- 20 e) Superiority - Class action treatment will allow a large number of
21 similarly situated persons to prosecute their common claims in a single
22 forum simultaneously, efficiently, and without the unnecessary
23 duplication of effort and expense that numerous individual actions
24 would require. Further, the monetary amounts due to many individual
25 members of the Class and Subclasses are likely to be relatively small, and
26 the burden and expense of individual litigation would make it difficult
27 or impossible for the members to seek and obtain relief. A class action
28 will serve an important public interest by permitting employees harmed

1 by Defendants' unlawful practices to effectively pursue recovery of the
2 sums owed to them.

- 3 f) Common Questions of Law and Fact – There are common questions of
4 law and fact as to the members of the Class and Subclasses which are
5 superior to questions affecting only individual members of the Class and
6 Subclasses. The common questions of law and fact may be summarized
7 as follows and if necessary will be refined with the progress of formal
8 discovery in the case:
- 9 g) Whether Defendants failed to provide members of Plaintiff Class who
10 ceased employment with Defendants all wages owed at the time of the
11 cessation of the employee-employer relationship?
- 12 h) Whether Defendants violated California law and applicable Wage
13 Orders by failing to provide Plaintiff Class members with paid ten-
14 minute (10) rest periods for each four hours worked?
- 15 i) Whether the remedy for an employer's failure to provide rest breaks as
16 required by law is a premium wage for hardship of missing a lawful rest
17 break?
- 18 j) Whether Defendants violated California law and applicable Wage
19 Orders by failing to provide Plaintiff Class members with an off-duty
20 thirty minute (30) meal period for more than five hours of work?
- 21 k) Whether Defendants violated California law and applicable Wage
22 Orders by failing to provide members of Plaintiff Class with a second
23 meal period?
- 24 l) Whether the remedy for an employer's failure to provide meal period as
25 required by law is a premium wage for hardship of missing a lawful
26 meal period?
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- 1 m) Whether Defendants violated California law, including the applicable
2 wage orders by failing to properly compensate Plaintiff Class members
3 for all hours worked, including overtime hours as applicable?
- 4 n) Whether Defendants violated California law by their failure to timely
5 pay owed wages to employees within seven (7) days after the close of
6 each payroll period?
- 7 o) Whether Plaintiff Class is entitled to waiting time penalties under Labor
8 Code § 203?
- 9 p) Whether Defendants violated California law by their failure to provide
10 Plaintiff Class with accurate and legally compliant itemized wage
11 statements?
- 12 q) Whether Defendants have violated Labor Code §2802 by failing to
13 reimburse Plaintiff and the Plaintiff Class for all business expenses
14 incurred by them in direct consequence of the discharge of their duties?
- 15 r) Whether Defendants violated Business and Professions Code §§ 17200 et.
16 seq., Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 1194,
17 1194.2, 2800, 2802, and applicable Wage Orders which constitutes
18 violations of the public policy?
- 19 s) Whether Plaintiff Class is entitled to an equitable relief in accordance
20 with Business and Professions Code §§ 17200 et. seq.
- 21 t) Whether Defendants' affirmative defenses, if any, raise common issues
22 of law and fact as to Plaintiff Class as a whole and/or Subclasses in
23 particular?

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VI.

FIRST CAUSE OF ACTION
FAILURE TO PROVIDE MEAL PERIODS OR
COMPENSATION IN LIEU THEREOF

(Labor Code §§ 226.7, 512)

(By Plaintiff and Meal Period Subclass against Defendants)

31. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
32. By their failure to provide thirty minute (30) uninterrupted meal period as well as second meal period, if applicable, to Plaintiff and members of the Meal Period Subclass, Defendants willfully violated the provisions of Labor Code §§ 226.7, 512 and applicable IWC Wage Orders.
33. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

VII.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS OR
COMPENSATION IN LIEU THEREOF

(Labor Code § 226.7)

(By Plaintiff and Rest Period Subclass against Defendants)

34. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
35. By their failure to provide ten-minute (10) rest periods for every four (4) hours of work or major fraction thereof per day to Plaintiff and Rest Period Subclass, Defendants willfully violated Labor Code § 226.7 and applicable Wage Orders.
36. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

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VIII.

THIRD CAUSE OF ACTION

FAILURE TO PAY WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2)

(By Plaintiff and the Unpaid Wage Subclass against Defendants)

37. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.

38. At all relevant times, Plaintiff and the other members of the Unpaid Wage Class were employees of Defendants covered by Labor Code §§ 204, 210, 510, 1194, 1194.2 and applicable Wage Orders, and they were entitled to receive minimum and overtime wages for all hours worked and liquidated damages equal to unlawfully unpaid minimum wages with interest.

39. Defendants have violated California law and the specified provisions of the Labor Code and applicable Wage Orders by their failure to pay all wages due in accordance, including minimum wages, wrongfully classified off-the-clock wages and overtime pay. Notably, any wages that were paid were not paid within seven (7) days after the close of any applicable payroll period. As a result of Defendants' unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

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IX.

FOURTH CAUSE OF ACTION

FAILURE TO PAY WAGES DUE AT TERMINATION

(Labor Code §§ 201, 202, 203)

(By Plaintiff and Waiting Time Subclass against Defendants)

40. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.

1 41. By their failure to timely pay Plaintiff and Waiting Time Subclass, Defendants
2 willfully violated the provisions of Labor Code §§ 201, 202, 203 and applicable
3 Wage Orders. Sec. 203 of Labor Code provides that if an employer willfully fails
4 to timely pay such wages, the employer must, as penalty, continue to pay the
5 employee's wages until the back wages are paid in full or an action is
6 commenced.

7 42. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
8 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
9 below, and fully incorporated here as applicable.
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11 X.

12 **FIFTH CAUSE OF ACTION**

13 **FAILURE TO PROVIDE COMPLIANT ITEMIZED WAGE STATEMENTS**

14 **(Labor Code §226)**

15 **(By Plaintiff and Wage Statement Subclass against Defendants)**

16 43. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint
17 as if fully alleged herein.

18 44. By their failure to provide accurate itemized wage statements, semimonthly or
19 at the time of each payment of wages, Defendants willfully violated the
20 provisions of Labor Code §226 and applicable Wage Orders.

21 45. As a result of Defendants' unlawful conduct, Plaintiff and other members of the
22 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
23 below, and fully incorporated here as applicable.

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XI.

SIXTH CAUSE OF ACTION

FAILURE TO REIMBURSE ALL BUSINESS EXPENSES

(Labor Code §§2800, 2802)

(By Plaintiff and Expense Reimbursement Subclass against Defendants)

46. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.

47. Labor Code § 2800 provides, in pertinent part, “[a]n employer shall in all cases indemnify his employee for losses caused by the employer’s want of ordinary care.”

48. Labor Code § 2802 provides, in pertinent part, “[a]n employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties...”

49. Further, Labor Code § 2802 additionally provides, in pertinent part: “(c)...the term ‘necessary expenditures or losses’ shall include all reasonable costs, including but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

50. During the relevant time period, Defendants were required to reimburse Plaintiff and class members for all expenditures or losses caused by the employer’s want of ordinary care and/or incurred in direct consequence of the discharge of their duties, but failed to indemnify and reimburse Plaintiff and class members in violation of Labor Codes §§ 2800 and 2802.

51. As a direct and proximate result, Plaintiff and class members have suffered, and continue to suffer, substantial losses, related to the use and enjoyment of such monies to be reimbursed, lost interest on such monies, and expenses and attorney’s fees in seeking to compel Defendants to fully perform their obligations under California law, all of their damage in amounts according to proof at the time of trial.

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XII.

SEVENTH CAUSE OF ACTION

VIOLATION OF UNFAIR BUSINESS PRACTICES ACT

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

(By Plaintiff, Plaintiff Class and All Subclasses against Defendants)

52. Plaintiff incorporates paragraphs 1 through 51 of this First Amended Complaint as if fully alleged herein.

53. The alleged unlawful conduct of Defendants constitutes unfair competition pursuant to Business and Professions Code §§ 17200 *et seq.*, and this cause of action is brought as a cumulative remedy under Bus. & Prof. Code § 17205 for the time period starting four (4) years before the filing of the Complaint.

54. As a result, Plaintiff and other members of Plaintiff Class and Subclasses have suffered injury in fact and lost money or property. Plaintiff and said members have been deprived of their rights as set forth in this First Amended Complaint, including, but not limited to, payment of minimum and/or actual wages for all hours worked.

55. Pursuant to Business and Professions Code § 17203, Plaintiff and other members of Plaintiff Class and Subclasses are entitled to restitution of all wages owed to them under the Labor Code, and interest thereon, in which they had a property interest, which Defendants failed to pay to them but withheld and retained for themselves. Restitution of the money owed to Plaintiff, Plaintiff Class and Subclasses is necessary to prevent Defendants from becoming unjustly enriched by their failure to comply with the Labor Code provisions.

56. Plaintiff and members of Plaintiff Class and Subclasses are entitled to recover reasonable attorney's fees in connection with their unfair competition claims pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

57. Plaintiff requests the court to issue a preliminary and permanent injunction prohibiting defendants from committing the Labor Code and applicable Wage

1 Order violations set forth in this First Amended Complaint, and Plaintiff and
2 the members of Plaintiff Class and Subclasses have suffered further damages as
3 articulated in the Prayer for Relief, set forth below, also incorporated here fully
4 as applicable.

5
6 **XIII.**

7 **EIGHTH CAUSE OF ACTION**

8 **VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEY GENERAL ACT**

9 **(LABOR CODE § 2699 *et seq.*)**

10 **(By Plaintiff and Aggrieved Employees Against Each Defendant)**

11 58. Plaintiff incorporates paragraphs 1 through 57 of this First Amended Complaint
12 as if fully alleged herein.

13 59. Under the Private Attorney General Act, Labor Code §§ 2698-99 ("PAGA"),
14 private parties may recover civil penalties for violations of the California Labor
15 Code. PAGA penalties are in addition to any other relief available under the
16 Labor Code.

17 60. As set forth above, Defendant violated the California Labor Code by
18 consistently failing to employ Plaintiff and other similarly situated employees
19 in compliance with California law.

20 61. Plaintiff provided written notice by certified mail to Defendants on April 19,
21 2022, and electronic notice thereafter to the State Labor & Workforce
22 Development Agency ("LWDA"), of the legal claims and theories of this case.
23 To date, and after 65 days from the date of mailing of notice, the LWDA has not
24 notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim
25 for civil penalties under the PAGA. Accordingly, Plaintiff exhausted
26 administrative remedies as required by Labor Code § 2699.3. Plaintiff's PAGA
27 claim was assigned case number LWDA-CM-879430-22 by the LWDA.
28 Appended hereto is a copy of the notice communicated by Plaintiff.

62. Under the PAGA, Plaintiff and all other aggrieved employees are entitled to recover the maximum civil penalties permitted by law from Defendant for the violations of Labor Code alleged in this First Amended Complaint and the notice communicated by Plaintiff.

63. Plaintiff and all other aggrieved employees are also entitled to recover their attorneys' fees and costs under Labor Code § 2699.

XIV.

PRAYER FOR RELIEF

WHEREFORE, on behalf of herself and all others similarly situated, Plaintiff prays for relief and judgment against Defendants as follows:

A. An order certifying that Plaintiff may pursue her claims as a class action under Section 382 of the Code of Civil Procedure; and it is further requested that Plaintiff Class and each Plaintiff Subclass be certified;

B. An order appointing Plaintiff as Class representative;

C. An order appointing Plaintiff's counsel as Class counsel;

D. Disgorgement of Defendants' wrongfully obtained profits and restitution of unpaid wages under Business and Professions Code §§ 17203, 17204;

E. Damages for unpaid additional compensation for failing to provide timely or uninterrupted or lawful meal periods and rest periods;

F. Damages for unpaid minimum wages under Labor Code § 1194;

G. Damages for unpaid overtime and double time wages to the extent applicable;

H. Liquidated damages under Labor Code § 1194.2;

I. Statutory penalties under Labor Code § 210;

J. Statutory penalties under Labor Code § 226(e);

K. Damages for unpaid penalty wages under Labor Code § 203;

L. Reimbursement of business expenses under Labor Code § 2802;

1 M. Reasonable attorney's fees and costs pursuant to statute, including, but
2 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5;

3 N. Enjoinment of Defendants from further acts of unfair competition and
4 continuous violations of the Labor Code and applicable Wage Orders;

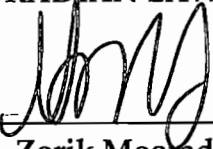
5 O. Civil penalties under Labor Code Section 2699 (75% payable to the
6 LWDA and 25% payable to aggrieved employees);

7 P. For costs of the suit incurred; and

8 Q. For such other relief that the Court may deem just and proper, including
9 prejudgment interest and costs.

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11 DATED: Nov. 14, 2022

MOORADIAN LAW, APC

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13 By: 

14 Zorik Mooradian,

Haik Hacopian,

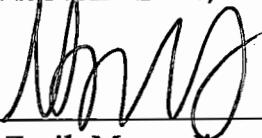
15 Attorneys for Plaintiff CARMEN PATRICIA
16 ALEMAN individually and on behalf of other
17 persons similarly situated

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19 **DEMAND FOR A JURY TRIAL**

20 Plaintiff CARMEN PATRICIA ALEMAN hereby demands a jury trial in the
21 above case.

22
23 DATED: Nov. 14, 2022

MOORADIAN LAW, APC

24
25 By: 

26 Zorik Mooradian,

Haik Hacopian,

27 Attorneys for Plaintiff CARMEN PATRICIA
28 ALEMAN individually and on behalf of other
persons similarly situated

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HAIK HACOPIAN

E-mail: haik@mooradianlaw.com

APRIL 19, 2022

VIA USPS CERTIFIED MAIL

Loteria Grill Restaurant Group, LLC
4228 West Pico Boulevard
Los Angeles, CA 90019
7019 0160 0000 9187 4854

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Loteria Grill Restaurant Group, LLC

To Whom It May Concern:

This office represents Carmen Patricia Aleman with respect to Private Attorneys General Act ("PAGA") claims that she intends to pursue against Loteria Grill Restaurant Group, LLC ("Loteria") based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

Loteria is engaged in the business of restaurant and catering services. Ms. Aleman worked as a non-exempt hourly employee of Loteria at its restaurant located at 4228 West Pico Boulevard in Los Angeles, California. Loteria employs numerous non-exempt, hourly paid employees such as Ms. Aleman in California. Unfortunately, Loteria has engaged in the following practices:

Failure to Pay Wages and Failure to Pay the Regular Rate

Loteria implemented the policy and practice of failing to pay employees for all hours worked. Additionally, employees also did not receive net 30-minute meal breaks. Also, any rest breaks taken were unpaid and off-the-clock as employees had to clock out for such rest breaks.

Loteria engages in the practice of not calculating relevant wages in accordance with employees' regular rate of compensation and that, at all times, calculated wages at employees' base hourly rate. Pursuant to Labor Code Section 510, any overtime wages must be paid at the rate of no less than one and one-half times the regular rate of pay and double time wages at no less than twice the regular rate of pay. Loteria, however, calculated overtime at one and one-half times of the lesser base hourly rate and double time at twice the lesser base hourly rate. To the extent any overtime was paid, overtime rates were not paid for hours exceeding eight (8) per day. The foregoing practices resulted in the underpayment of wages to employees, including underpayment of overtime and double-time to the extent applicable.

Late Paychecks

Loteria engages in the practice of failing to timely pay undisputed wages to employees promptly upon the close of a payroll period. Loteria maintained bi-weekly payroll periods that had pay dates that were beyond the seven (7) calendar day maximum.

Meal Breaks

Loteria engages in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. Employees did not receive premium pay for any missed, late, or short meal period. Notably, meal breaks, to the extent taken, were not at least a net thirty (30) minutes in duration on account of the clock in and out process and other factors. Loteria failed to pay an additional one hour of pay at the employee's "regular rate of compensation" for each workday that the meal or rest or recovery period was not provided.

Rest Breaks

Loteria engages in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees did not receive premium pay for these missed rest breaks. Notably, any rest breaks permitted were not at least a net ten (10) minutes in duration on account of the clocking in and out process. Further, to the extent any rest breaks were taken, they were unpaid as employees had to clock out and other factors. Loteria failed to pay an additional one hour of pay at the employee's "regular rate of compensation" for each workday that the meal or rest or recovery period was not provided.

Waiting Time and Unpaid Vacation Wages

At the time of an employee's separation (whether it be by termination or resignation) Loteria has failed to provide the employee with all monies owed, including meal break premiums, rest break premiums, and unpaid wages for work performed, including overtime and double-time wages to the extent applicable. Additionally, separating employees were never timely paid their undisputed final wages. In Ms. Aleman instance, she separated from her employment on June 17, 2021 but received a final paycheck on June 23, 2021.

Loteria maintained a vacation benefit for employees and additional vacation wages would be owed to the extent that any unpaid compensation was not factored into the accrual of the vacation benefit. Correspondingly, any vacation balance paid to an employee upon separation would not be full and complete.

Noncompliant Wage Statements

Loteria has adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to, including meal and rest break premiums.

Failure to Fully Reimburse Employee Expenses

Employees were forced to purchase supplies, including personal protective equipment such as gloves, masks, and back braces, to safely carry out their job duties but Loteria never reimbursed these expenses.

Failure to Maintain Records

Loteria further failed to maintain Ms. Aleman's and other aggrieved employees' payroll records showing the hours worked daily and the wages paid pursuant to Labor Code §1174.

Additional Penalties

Ms. Aleman and all other similarly aggrieved California employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which Loteria has violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: Loteria violated, and continues to violate, Labor Code Section 201 by failing to pay the employees it has discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination include uncompensated work time, including overtime and double-time as applicable, and premium wages for missed meal and rest breaks.

Labor Code Section 202: Loteria violated, and continues to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: Loteria violated, and continues to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Sections 204 and 210: Loteria violated, and continues to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above including failing to timely pay wages within seven (7) calendar days following the close of payroll periods.

Labor Code Section 226: Loteria violated, and continues to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: Loteria violated, and continues to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Section 227.3: Liberty violated, and continues to violate, Labor Code Section 227.3 by failing to promptly pay all vested vacation benefits to employees upon their separation.

Labor Code Section 510: Loteria violated, and continues to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law including failing to calculate overtime and doubletime wages in accordance with employees' regular rate of pay.

Labor Code Section 512: Loteria violated, and continues to violate, Labor Code Section 512 by not providing employees with legally compliant meal periods.

Labor Code Sections 1174 and 1174.5: Loteria violated, and continues to violate, Labor Code Section 1174 by failing to maintain employees' payroll records showing the hours worked daily and the wages paid.

Labor Code Section 1194: Loteria violated, and continues to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

Labor Code Sections 1197 and 1197.1: Loteria violated, and continues to violate, Labor Code Section 1197 by paying employees wages that are less than the minimum fixed by an applicable state or local law.

Labor Code Section 2802: Loteria violated and continues to violate, Labor Code Section 2802 by failing to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we may file an appropriate action, pursuant to Labor Code Section 2698 *et seq.* Ms. Aleman and all other similarly aggrieved California employees intend to seek all penalties for the violations described above. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,

MOORADIAN LAW, APC

/s/ Haik Hacopian

HAIK HACOPIAN

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Sent To: **LOTERIA GRILL RESTAURANT GROUP, LLC**
Street and Apt. No., or PO Box No.: **4228 WEST PICO BOULEVARD**
City, State, ZIP+4®: **LOS ANGELES, CA 90019**

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



Haik Hacopian <haik.hacopian@gmail.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "haik.hacopian@gmail.com" <haik.hacopian@gmail.com>

Tue, Apr 19, 2022 at 4:32 PM

4/19/2022

LWDA Case No. LWDA-CM-879430-22
Law Firm : Mooradian Law, APC
Plaintiff Name : Carmen Patricia Aleman
Employer: Loteria Grill Restaurant Group, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

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

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On **November 14, 2022**, I served on the parties of record in this action the foregoing document(s) described as:

on the parties to this action by placing them in a sealed envelope(s) addressed as follows:

Attorneys for Defendant

☒ **STATE** – I declare under penalty of perjury under the laws of the “State of California that the above is true and correct.

Executed on **November 14, 2022** at Calabasas, California.

Haik Hacopian