

Kevin Mahoney (SBN: 235367)
kmahoney@mahoney-law.net
Morgan E. Glynn (SBN: 303822)
mglynn@mahoney-law.net
MAHONEY LAW GROUP, APC
249 E. Ocean Blvd., Ste. 814
Long Beach, CA 90802
Telephone: (562) 590-5550
Facsimile: (562) 590-8400

*Attorneys for Plaintiff JANAE BROWN,
individually and on behalf of all aggrieved employees*

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAY 11 2016

Sherri R. Carter, Executive Officer/Clerk
By: Judi Lara, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

JANAE BROWN, individually and on
behalf of all aggrieved employees,

Plaintiff,

v.

BLAZIN WINGS, INC. and DOES 1
through 50, inclusive,

Defendants.

Case No.:

BC 6 2 0 1 8 5

COMPLAINT

1. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq. for Failure to Pay Wages including Overtime.
2. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq. for Failure to Provide Meal Periods
3. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq. for Failure to Provide Rest Periods
4. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq. for Failure to Pay Wages Due upon Termination of Employment
5. Violation of the Private Attorneys' General Act, Labor Code § 2698 et seq. for Failure to Provide Accurate Itemized Wage Statements

DEMAND FOR JURY TRIAL

1 Plaintiff JANA E BROWN ("Plaintiff" or "Ms. Brown"), individually and on behalf of
2 all aggrieved employees, complains and alleges on information and belief as follows:

3 I.

4 INTRODUCTION

5 1. This is an action brought on behalf of Plaintiff and all aggrieved employees she
6 seeks to represent ("Aggrieved Employees"). Aggrieved Employees consist of all non-exempt,
7 hourly-paid employees, including but not limited to servers, drink makers, and kitchen staff,
8 currently and/or formerly employed by Defendant BLAZIN WINGS, INC. dba BUFFALO
9 WILD WINGS ("BLAZIN WINGS" or "Defendant"). The term "Relevant Time Period" or
10 "Time Period" is defined as four (4) years prior to the filing of this Complaint. Plaintiff reserves
11 the right to amend this Complaint to reflect a different "Time Period" or modify the definition
12 of "Aggrieved Employees" as further discovery is conducted.

13 2. Plaintiff, individually and on behalf of all Aggrieved Employees, seeks relief
14 against Defendant for: (1) its failure to pay all wages due, including both regular and overtime
15 wages, and minimum wages; (2) its failure to provide meal periods or compensation in lieu
16 thereof; (3) its failure to provide rest periods or compensation in lieu thereof; (4) its failure to
17 pay wages due at separation of employment; and (5) its failure to provide accurate itemized
18 wage statements upon payment of wages.

19 3. Plaintiff seeks penalties in connection with Defendant's Labor Code violations
20 based on Labor Code section 2698 et seq., the Private Attorneys General Act of 2004
21 (hereinafter "PAGA").

22 4. At all relevant times herein, Defendant has consistently maintained and enforced
23 against Plaintiff the following unlawful policies and practices:

- 24 (a) willfully refusing to pay Plaintiff for all hours worked, including both
25 regular, overtime, and minimum wages;
26 (b) willfully refusing to permit Plaintiff from taking meal periods or
27 providing compensation in lieu thereof;

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- 1 (c) willfully refusing to permit Plaintiff from taking rest periods or providing
2 compensation in lieu thereof;
- 3 (d) willfully refusing to pay Plaintiff and Aggrieved Employees for all wages
4 due upon separation of employment; and
- 5 (e) willfully refusing to furnish to Plaintiff accurate itemized wage statements
6 upon payment of wages.

7 **II.**

8 **JURISDICTION AND VENUE**

9 5. Venue is proper in this Judicial district and the County of Los Angeles, pursuant
10 to Code of Civil Procedure, section 395 because Defendant maintains its locations and transacts
11 business in this county, the obligations and liabilities arise in this county, and work was
12 performed by Plaintiff in this county, making the subject of this action in the County of Los
13 Angeles, California.

14 6. The wages, statutory penalties, monetary damages and restitution sought by
15 Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established
16 according to proof at trial. This Court has jurisdiction over this action pursuant to the California
17 Constitution, article VI, section 10. The statutes under which this action is brought do not
18 specify any other basis for jurisdiction.

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

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III.

THE PARTIES

A. The Plaintiff

8. Plaintiff, at all relevant times herein, was Defendant's employee and was entitled to compensation for all hours worked, including regular time and overtime compensation, and penalties from Defendant. Plaintiff was employed by Defendant as a non-exempt, hourly-paid employee during the Relevant Time Period. Specifically, Plaintiff worked for Defendant during the Time Period as a server at Defendant's location in Lakewood, California. Each of the Aggrieved Employees are identifiable, current and/or former similarly situated persons who were employed in non-exempt hourly positions in California by Defendant during the Time Period.

B. The Defendant

9. Plaintiff is informed and believes, and based thereon alleges, that BLAZIN WINGS is a California corporation with its principal place of business in Los Angeles County, California. Plaintiff is further informed and believes that BLAZIN WINGS is conducting business in good standing in California. BLAZIN WINGS owns and operates a restaurant with at least two (2) locations in Los Angeles County, California. On information and belief, BLAZIN WINGS was and/or is the employer of Plaintiff and other Aggrieved Employees at all relevant times.

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

11. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a

1 joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each
2 Defendant are legally attributable to the other defendants. Furthermore, defendants in all
3 respects acted as the employer and/or joint employer of Plaintiff and Aggrieved Employees.

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

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

19 IV.

20 ADMINISTRATIVE PREREQUISITES

21 14. By this Complaint, Plaintiff brings this case as a representative action seeking
22 penalties for the State of California in a representative capacity, as provided by the Private
23 Attorneys General Act ("PAGA") Labor Code section 2698 et seq., to the extent permitted by
24 law, as an aggrieved employee who was employed by Defendant and did not receive all wages
25 due, was not able to take lawful meal and rest breaks due to Defendant's policy and practice of
26 understaffing its workplace, and did not receive all wages due at the termination of employment.

27 15. Prior to filing this Complaint, on January 14, 2016, Plaintiff gave written notice
28 by certified mail to the Labor and Workforce Development Agency ("LWDA") and to

1 Defendant of the specified provisions alleged to have been violated, including the facts and
2 theories to support the alleged violations as required by Labor Code section 2699.3. A true and
3 correct copy of Plaintiff's letter sent to the LWDA, dated January 14, 2016, is attached hereto
4 as "Exhibit A."

5 V.

6 **GENERAL ALLEGATIONS**

7 16. Labor Code section 1194 provides that notwithstanding any agreement to work
8 for a lesser wage, an employee receiving less than the legal overtime compensation is entitled
9 to recover in a civil action the unpaid balance of his or her overtime compensation, including
10 interest thereon, reasonable attorneys' fees, and costs of suit.

11 17. During all, or a portion of the relevant time period, Plaintiff and each the
12 Aggrieved Employees was employed by Defendant in the State of California.

13 18. Plaintiff and the Aggrieved Employees were non-exempt employees covered
14 under one or more IWC Wage Order(s), Labor Code section 510, and/or other applicable wage
15 orders, regulations and statutes, and each Class Member was not subject to an exemption for
16 executive, administrative or professional employees, which imposed obligations on the part of
17 Defendant to pay Plaintiff and Aggrieved Employees lawful overtime compensation.

18 19. Plaintiff was covered by one or more IWC Wage Order(s), Labor Code section
19 226.7, and other applicable regulations and statutes which imposed an obligation on the part of
20 Defendant to pay Plaintiff rest and meal period compensation.

21 20. During the relevant time period, Defendant was obligated to pay Plaintiff and
22 Aggrieved Employees for all hours worked. However, Defendant had a policy and practice of
23 not paying Plaintiff for all hours worked by requiring its employees to work off-the-clock either
24 before or after their scheduled shifts.

25 21. During the relevant time period, Defendant was obligated to pay Plaintiff and
26 Aggrieved Employees overtime compensation for all hours worked in excess of eight (8) hours
27 of work in one (1) day or forty (40) hours in one (1) week, and double-time compensation for
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1 hours worked in excess of twelve (12) in one (1) day. However, Defendant did not pay Plaintiff
2 and each of the Aggrieved Employees proper overtime rates as required by law.

3 22. During the Time Period, Defendant was obligated to provide Plaintiff and
4 Aggrieved Employees with a work free meal period within the first five (5) hours of a shift
5 when the workday was longer than six (6) hours. Defendant routinely denied Plaintiff and
6 Aggrieved Employees a full, thirty (30) minute, off-duty meal period when they worked in
7 excess of six (6) hours within the first five (5) hours of their shifts.

8 23. Additionally, Defendant was obligated to provide Plaintiff and Aggrieved
9 Employees with a ten (10) minute rest break for every four (4) hours, or major fraction thereof,
10 worked each day. Defendant prevented, discouraged and/or dissuaded Plaintiff and Aggrieved
11 Employees from taking rest breaks throughout their shifts.

12 24. Plaintiff and Aggrieved Employees primarily performed non-exempt work,
13 including but not limited to serving food and drinks, preparing and/or cooking food and drinks,
14 and cleaning, often in excess of the maximum regular rate hours set forth in the applicable IWC
15 Wage Order(s), regulations or statutes, and therefore entitled the Plaintiff and Aggrieved
16 Employees to overtime compensation at the rate of one and a half times their regular rate of pay
17 and, when applicable, double time compensation as set forth by the applicable IWC Wage
18 Order(s), regulations and/or statutes.

19 25. During the Time Period, Defendant required Plaintiff and Aggrieved Employees
20 to work regular hours, off the clock hours, and overtime hours without lawful compensation in
21 violation of the applicable IWC Wage Order(s), regulations and statutes, and Defendant:
22 (1) willfully failed and refused, and continues to fail and refuse to pay compensation for all
23 hours worked, including lawful regular time and overtime compensation, to Aggrieved
24 Employees; and (2) willfully failed and refused, and continues to fail and refuse to pay due and
25 owing wages promptly upon termination of employment to Plaintiff and affected Aggrieved
26 Employees.

27 26. Aggrieved Employees who ended their employment with Defendant during the
28 Relevant Time Period, but were not paid the above due compensation for all hours worked

1 timely upon the termination of their employment as required by Labor Code sections 201-203
2 are entitled to penalties as provided by Labor Code section 203.

3 27. Defendant further failed and/or refused to schedule Plaintiff and Aggrieved
4 Employees so as to reasonably ensure they took meal and/or rest breaks within the required
5 statutory time frame as required by law.

6 28. Furthermore, Defendant failed and/or refused to pay Plaintiff or Aggrieved
7 Employees one (1) hour's pay at the employees' regular rate of pay as premium compensation
8 for its failure to provide lawful thirty (30) minute, off-duty meal periods and failure to provide
9 lawful ten (10) minute rest periods within the statutory time frames.

10 29. As a result of Defendant's failure to pay Plaintiff and Aggrieved Employees all
11 wages due, Defendant failed to provide Plaintiff and Aggrieved Employees with accurate
12 itemized wage statements as all hours worked were either not reflected or reflected inaccurately
13 in the wage statements.

14 VI.

15 FIRST CAUSE OF ACTION

16 **Violation of PAGA for Failure to Pay Wages including Overtime**

17 **(Against Defendant, DOES 1 through 50, and each of them)**

18 30. Plaintiff and Aggrieved Employees re-allege and incorporate paragraphs 1
19 through 29 of this Complaint as if fully set forth herein.

20 31. Plaintiff and Aggrieved Employees worked for Defendant and were not paid for
21 all hours worked. Defendant failed to pay Plaintiff and Aggrieved Employees for all hours
22 worked, in part, because Defendant had a policy and practice of requiring Plaintiff and
23 Aggrieved Employees to work off-the-clock, and because Defendant had a policy and practice
24 of failing to pay lawful overtime and double-overtime rates when Plaintiff and Aggrieved
25 Employees worked in excess of eight (8) and/or twelve (12) hours per day and/or forty (40)
26 hours per week.

27 32. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day
28 and forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees

1 overtime premiums and/or double-overtime premiums for hours worked in excess of eight (8)
2 and/or twelve (12) hours per day and forty (40) hours per week for work performed for
3 Defendant. Defendant failed to schedule Plaintiff and Aggrieved Employees in such a manner
4 that allowed Plaintiff and Aggrieved Employees to be relieved of their shifts immediately,
5 thereby causing Plaintiff and Aggrieved Employees to work in excess of eight (8) hours per day
6 and/or forty (40) hours per week. As such, Plaintiff and Aggrieved Employees seek overtime
7 and/or double-overtime in an amount according to proof.

8 33. Pursuant to Labor Code section 1194, Plaintiff and Aggrieved Employees seek
9 the payment of all regular time compensation, overtime compensation and/or double-time
10 compensation which they earned and accrued throughout the Time Period, according to proof.

11 34. Defendant has willfully violated the Labor Code by failing to pay Plaintiff and
12 Aggrieved Employees all wages. Plaintiff and Aggrieved Employees were denied wages as a
13 result of Defendant's policy and practice of failing to make lawful meal and/or rest periods
14 available to Plaintiff and Aggrieved Employees and failing to compensate Plaintiff and
15 Aggrieved Employees for all regular and overtime hours worked. Further, Defendant has
16 regularly violated the Labor Code with respect to meeting the requirements of paying wages
17 earned, including regular time, overtime, double-overtime and remuneration when calculating
18 the employees regular rate of pay, as herein before alleged. Defendant has intentionally
19 excluded remuneration that must be included in all employees' regular rate of pay in order to
20 avoid payment of wages and other benefits in violation of the Labor Code and the applicable
21 IWC Wage Order(s). Thereby, Defendant is able to reduce its overhead and operating expenses
22 and gain an unfair advantage over competing restaurants who comply with state law.

23 35. Plaintiff, by virtue of her employment with Defendant and the Defendant's policy
24 requiring employees to work through meal and rest periods which resulted in its failure to pay
25 all minimum wages, and because of the Defendant's policy of requiring employees to work "off
26 the clock" either before or after their shifts which resulted in its failure to pay all overtime
27 wages, is an aggrieved employee with standing to bring an action under PAGA. Plaintiff has
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1 satisfied all prerequisites to serve as a representative of the general public to enforce
2 California's labor laws, and the penalty provisions identified in Labor Code section 2699.5.

3 36. Since the LWDA has not indicated that it will be investigating and 33 days have
4 passed since Plaintiff mailed her letter, and because Defendant took no corrective action to
5 remedy the allegations set forth above, Plaintiff, as a representative of the people of the State
6 of California, will seek any and all penalties otherwise capable of being collected by the Labor
7 Commission and/or the Department of Labor Standards ("DLSE"). This includes each of the
8 following, as set forth in Labor Code section 2699.5, which provides that section 2699.3(a)
9 applies to any alleged violation of the following provisions: 558, 510, 1194.

10 37. Labor Code section 558 provides for civil penalties for violations of the Labor
11 Code sections 500-558 or any provision regulating hours and days of work in any Wage Order.
12 The civil penalty is \$50 for the initial violation and \$100 for each subsequent violation for each
13 underpaid employee in addition to "an amount sufficient to recover underpaid wages." Labor
14 Code § 558. The wages recovered are to be paid to the affected employee.

15 38. Plaintiff is informed and believes that Defendant has violated and continues to
16 violate provisions of the California Labor Code and applicable Wage orders related to the
17 payment of minimum wages including overtime.

18 39. Plaintiff, as a personal representative of the general public, will and does seek to
19 recover any and all penalties for each and every violation shown to exist or to have occurred
20 during the one-year period before Plaintiff filed Notice with the LWDA of her intent to bring
21 this action, in an amount according to proof, as to those penalties that are otherwise only
22 available to public agency enforcement actions. Funds recovered will be distributed in
23 accordance with the PAGA, with at least 75% of the penalties recovered being reimbursed to
24 the LWDA.

25 40. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees
26 and costs pursuant to Labor Code sections 218.5, 226, 1194, and prejudgment interest.

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VII.

SECOND CAUSE OF ACTION

**Violation of PAGA for Failure to Provide Meal Periods or Compensation in Lieu Thereof
(Against Defendant, DOES 1 through 50, and each of them)**

41. Plaintiff and Aggrieved Employees re-allege and incorporate paragraphs 1 through 40 of this Complaint as if fully set forth herein.

42. Labor Code sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than six (6) hours without providing a meal period of not less than thirty (30) minutes within the fifth (5th) hour of work, or employ any person for a work period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30) minutes.

43. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this section.

44. Defendant failed to schedule Plaintiff and Aggrieved Employees in a manner as to reasonably ensure that Plaintiff and Aggrieved Employees could take such meal periods within the statutory timeframe. As a result, Plaintiff and Aggrieved Employees were often forced to forego their meal periods, work during their meal periods and/or take meal periods after the fifth (5th) hour of their shifts. In so doing, Defendant has intentionally and improperly denied meal periods to Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512, and other regulations and statutes.

45. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more than five (5) hours in a workday.

46. At varying times relevant hereto, Plaintiff and Aggrieved Employees have worked more than ten (10) hours in a workday.

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1 47. At all times relevant hereto, Defendant failed to schedule Plaintiff and Aggrieved
2 Employees in a manner so as to reasonably provide work free meal periods in accordance with
3 Labor Code sections 226.7 and 512.

4 48. By virtue of the Defendant's failure to schedule Plaintiff and Aggrieved
5 Employees in such a way as to provide a timely and/or work free meal period to Plaintiff and
6 Aggrieved Employees, Plaintiff and Aggrieved Employees have suffered, and will continue to
7 suffer, damages in an amount which is presently unknown, but which exceed the jurisdictional
8 limits of this Court and which will be ascertained according to proof at trial.

9 49. Plaintiff, individually and on behalf of Aggrieved Employees, requests recovery
10 of meal period compensation pursuant to Labor Code section 226.7 for the four (4) years prior
11 to filing this complaint, as well as the assessment of any statutory penalties against Defendant
12 in a sum as provided by the Labor Code and/or other statutes.

13 50. Plaintiff by virtue of her employment with Defendant and the Defendant's policy
14 of requiring employees to work through their meal periods without receiving compensation in
15 lieu thereof, is an aggrieved employee with standing to bring an action under the PAGA.
16 Plaintiff has satisfied all prerequisites to serve as a representative of the general public to
17 enforce California's labor laws, and the penalty provisions identified in Labor Code section
18 2699.5.

19 51. Plaintiff, as a representative of the people of the State of California, will seek any
20 and all penalties otherwise capable of being collected by the Labor Commission and/or the
21 DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which
22 provides that section 2699.3(a) applies to any alleged violation of the following provisions: 558,
23 226.7, 512.

24 52. Labor Code section 558 provides for civil penalties for violations of the Labor
25 Code section 500-558 or any provision regulating hours and days of work in any Wage Order.
26 The civil penalty is \$50 for the initial violation and \$100 for each subsequent violation for each
27 underpaid employee in addition to "an amount sufficient to recover underpaid wages." Labor
28 Code §558. The wages recovered are to be paid to the affected employee.

53. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred under Labor Code section 558 during the one-year period before Plaintiff filed Notice with the LWDA of her intent to bring this action, in an amount according to proof. Plaintiff also seeks to recover up to three years or underpaid wages under Labor Code section 558 which will be distributed to the affected employees.

VIII.

THIRD CAUSE OF ACTION

Violation of PAGA for Failure to Provide Rest Periods or Compensation in Lieu Thereof (Against Defendant, DOES 1 through 50, and each of them)

54. Plaintiff and Aggrieved Employees re-allege and incorporate paragraphs 1 through 53 of this Complaint as if fully set forth herein.

55. The IWC Wage Orders and Labor Code section 226.7 provide that employers must authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

56. Labor Code section 226.7, subdivision (b) provides that if an employer fails to provide an employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employees' regular rate of compensation for each workday that the rest period is not provided.

57. Defendant failed and/or refused to implement a relief system by which Plaintiff and Aggrieved Employees could receive lawful rest breaks. Plaintiff and Aggrieved Employees did not receive their rest break(s) on most, if not all, days worked. By and through its actions, Defendant intentionally and improperly denied rest periods to Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

58. At all times relevant hereto, the Plaintiff and Aggrieved Employees, have worked more than four (4) hours in a workday.

59. By virtue of Defendant's unlawful failure to provide rest periods to Plaintiff and Aggrieved Employees, Plaintiff and Aggrieved Employees have suffered, and will continue to

1 suffer, damages in amounts which are presently unknown, but which exceed the jurisdictional
2 limits of this Court and which will be ascertained according to proof at trial.

3 60. Plaintiff, individually and on behalf of Aggrieved Employees, requests recovery
4 of rest period compensation pursuant to Labor Code section 226.7 for the four (4) years prior
5 to filing this complaint, as well as the assessment of any statutory penalties against Defendant
6 in a sum as provided by the Labor Code and/or any other statute.

7 61. Plaintiff by virtue of her employment with Defendant and the Defendant's policy
8 of requiring employees to work through their meal periods without receiving compensation in
9 lieu thereof, is an aggrieved employee with standing to bring an action under the PAGA.
10 Plaintiff has satisfied all prerequisites to serve as a representative of the general public to
11 enforce California's labor laws, and the penalty provisions identified in Labor Code section
12 2699.5.

13 62. Plaintiff, as a representative of the people of the State of California, will seek any
14 and all penalties otherwise capable of being collected by the Labor Commission and/or the
15 DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which
16 provides that section 2699.3(a) applies to any alleged violation of the following provisions: 558,
17 226.7. 512.

18 63. Labor Code section 558 provides for civil penalties for violations of the Labor
19 Code section 500-558 or any provision regulating hours and days of work in any Wage Order.
20 The civil penalty is \$50 for the initial violation and \$100 for each subsequent violation for each
21 underpaid employee in addition to "an amount sufficient to recover underpaid wages." Labor
22 Code section 558. The wages recovered are to be paid to the affected employee.

23 64. Plaintiff, as a personal representative of the general public, will and does seek to
24 recover any and all penalties for each and every violation shown to exist or to have occurred
25 under Labor Code section 558 during the one-year period before Plaintiff filed Notice with the
26 LWDA of her intent to bring this action, in an amount according to proof. Plaintiff also seeks
27 to recover up to three years or underpaid wages under Labor Code section 558 which will be
28 distributed to the affected employees.

IX.

FOURTH CAUSE OF ACTION

Violation of PAGA for Failure to Pay Wages Due upon Termination

(Against Defendant, DOES 1 through 50, and each of them)

65. Plaintiff and Aggrieved Employees re-allege and incorporate paragraphs 1 through 64 of this Complaint as if fully set forth herein.

66. Plaintiff and certain Aggrieved Employees who ended their employment with Defendant during the Time Period, were entitled to be promptly paid for all hours worked, including lawful regular time compensation, overtime compensation, double-overtime compensation, and other premiums, as required by Labor Code sections 201-203.

67. Plaintiff and Aggrieved Employees were not compensated for their unlawful and/or missed meal periods and rest periods, and were not paid proper regular time compensation, overtime compensation or double-overtime compensation in accordance with law because Defendant refused to properly and promptly compensate Plaintiff and Aggrieved Employees for all wages earned.

68. To date, Plaintiff and Aggrieved Employees who ended their employment with Defendant during the Time Period have not been compensated for all hours worked.

69. Plaintiff and the affected Aggrieved Employees seek the payment of penalties pursuant to Labor Code section 203, according to proof.

70. Plaintiff by virtue of her employment with Defendant and the Defendant's policy of requiring employees to work through their meal periods without receiving compensation in lieu thereof, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Labor Code section 2699.5.

71. Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which

1 provides that section 2699.3(a) applies to any alleged violation of the following provisions: 201-
2 203, 226, 226.7, 510, 512, 1174, and 1194.

3 72. Labor Code section 558 provides for civil penalties for violations of the Labor
4 Code section 500-558 or any provision regulating hours and days of work in any Wage Order.
5 The civil penalty is \$50 for the initial violation and \$100 for each subsequent violation for each
6 underpaid employee in addition to “an amount sufficient to recover underpaid wages.” Labor
7 Code section 558. The wages recovered are to be paid to the affected employee.

8 73. Plaintiff, as a personal representative of the general public, will and does seek to
9 recover any and all penalties for each and every violation shown to exist or to have occurred
10 under Labor Code section 558 during the one-year period before Plaintiff filed Notice with the
11 LWDA of her intent to bring this action, in an amount according to proof. Plaintiff also seeks
12 to recover up to three years or underpaid wages under Labor Code section 558 which will be
13 distributed to the affected employees.

14 **X.**

15 **FIFTH CAUSE OF ACTION**

16 **Violation of PAGA for Failure to Provide Accurate Itemized Wage Statements**

17 **(Against Defendant, DOES 1 through 50, and each of them)**

18 74. Plaintiff and Aggrieved Employees re-allege and incorporate paragraphs 1
19 through 73 of this Complaint as if fully set forth herein.

20 75. Labor Code section 1174, subdivision (d) requires an employer to keep at a
21 central location in California, or at the plant or establishment at which the employee is
22 employed, payroll records showing the hours worked daily by, and the wages paid to, each
23 employee.

24 76. Labor Code section 226, subdivision (a) requires an employer to provide
25 employees—either as a detachable part of the check, draft, or voucher paying the employee’s
26 wages, or separately when wages are paid by personal check or cash—an accurate itemized
27 wage statement in writing showing “(1) gross wages earned, (2) total hours worked by the
28 employee . . . , (4) all deductions . . . , (5) net wages, (6) the inclusive dates of the period for

1 which the employee is paid, (7) the name of the employee and only the last four digits of his or
2 her social security number or an employee identification number other than a social security
3 number, (8) the name and address of the legal entity that is the employer . . . , and (9) all
4 applicable hourly rates in effect during the pay period and corresponding number of hours
5 worked at each hourly rate by the employee”

6 77. Moreover, the IWC Wage Orders require that every employer shall keep accurate
7 information with respect to each employee, including time records showing when each
8 employee begins and ends each work period, the total daily hours worked by each employee
9 and the total hours worked in each payroll period, and applicable rates of pay.

10 78. Plaintiff is informed and believes that Defendant willfully and intentionally failed
11 to make and/or keep records which accurately reflect the hours worked by Plaintiff and
12 Aggrieved Employees. Specifically, Plaintiff believes that Defendant’s records do not
13 accurately reflect when Plaintiff and Aggrieved Employees worked during their meal and rest
14 periods and/or took untimely meal periods.

15 79. Labor Code section 226, subdivision (e) provides that if an employer knowingly
16 and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages
17 earned, the total hours worked by the employee and the applicable hourly overtime rates,
18 causing the employee injury, then the employee is entitled to recover the greater of all actual
19 damages or fifty dollars (\$50) for the initial violation and one hundred dollars (\$100) for each
20 subsequent violation, up to four thousand dollars (\$4,000). Plaintiff is informed and believes
21 that Defendant willfully failed to make or keep accurate records for Plaintiff and Aggrieved
22 Employees.

23 80. Plaintiff is informed and believes that Defendant’s failure to keep accurate payroll
24 records, as described above, violated Labor Code section 1174, subdivision (d) and section 226,
25 subdivision (a), and the applicable IWC Wage Order(s). Pursuant to Labor Code section 2699,
26 subdivision (f)(2), Plaintiff and the Aggrieved Employees are entitled to penalties of \$100.00
27 and for the initial violation and \$200.00 for each subsequent violation for every pay period
28 during which these records and information were not kept by Defendant.

1 81. Plaintiff is informed and believes that Defendant's failure to keep and maintain
2 accurate records and information, as described above, was willful, and Plaintiff and the
3 Aggrieved Employees are entitled to statutory penalties pursuant to Labor Code section 1174.5.

4 82. Plaintiff by virtue of her employment with Defendant and the Defendant's policy
5 of requiring employees to work through their meal periods without receiving compensation in
6 lieu thereof, is an aggrieved employee with standing to bring an action under the PAGA.
7 Plaintiff has satisfied all prerequisites to serve as a representative of the general public to
8 enforce California's labor laws, and the penalty provisions identified in Labor Code section
9 2699.5.

10 83. Plaintiff, as a representative of the people of the State of California, will seek any
11 and all penalties otherwise capable of being collected by the Labor Commission and/or the
12 DLSE. This includes each of the following, as set forth in Labor Code section 2699.5, which
13 provides that section 2699.3(a) applies to any alleged violation of the following provisions: 201-
14 203, 226, 226.7, 510, 512, 1174, and 1194.

15 84. Labor Code section 558 provides for civil penalties for violations of the Labor
16 Code section 500-558 or any provision regulating hours and days of work in any Wage Order.
17 The civil penalty is \$50 for the initial violation and \$100 for each subsequent violation for each
18 underpaid employee in addition to "an amount sufficient to recover underpaid wages." Labor
19 Code section 558. The wages recovered are to be paid to the affected employee.

20 85. Plaintiff, as a personal representative of the general public, will and does seek to
21 recover any and all penalties for each and every violation shown to exist or to have occurred
22 under Labor Code section 558 during the one-year period before Plaintiff filed Notice with the
23 LWDA of her intent to bring this action, in an amount according to proof. Plaintiff also seeks
24 to recover up to three years or underpaid wages under Labor Code section 558 which will be
25 distributed to the affected employees.

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XI.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For nominal damages;
2. For compensatory damages;
3. For restitution of all monies due to Plaintiff and Aggrieved Employees, and disgorged profits from Defendant's unlawful business practices;
4. For penalties as provided, per each violation, by the PAGA, Labor Code section 2699, et seq. for failure to pay all minimum wages due including overtime;
5. For an amount sufficient to recover up to three years of unpaid wages to those employees who were underpaid minimum wages including overtime pursuant to Labor Code section 558;
6. For all statutory penalties provided under Labor Code section 558, including \$50 for the initial violation and \$100 for each subsequent violation for each pay period during which an employee was underpaid wages including overtime;
7. For penalties as provided, per each violation, by the PAGA, Labor Code section 2699, et seq. for failure to provide all meal periods.
8. For an amount sufficient to recover up to the three years of underpaid wages to those employees who were underpaid wages due to failure to provide work-free meal periods pursuant to Labor Code section 558;
9. For all statutory penalties provided under Labor Code section 558, including \$50 for the initial violation and \$100 for each subsequent violation for each pay period during which an employee was underpaid due to failure to provide work-free meal periods;
10. For penalties as provided, per each violation, by the PAGA, Labor Code section 2699, et seq. for failure to provide all rest periods.

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11. For an amount sufficient to recover up to the three years of underpaid wages to those employees who were underpaid wages due to failure to provide paid rest periods pursuant to Labor Code section 558;
12. For all statutory penalties provided under Labor Code section 558, including \$50 for the initial violation and \$100 for each subsequent violation for each pay period during which an employee was underpaid due to failure to provide paid rest periods;
13. For penalties as provided, per each violation, by the PAGA, Labor Code section 2698 et seq. for failure to timely pay wages at separation.
14. For penalties as provided, per each violation, by the PAGA, Labor Code section 2698 et seq. for failure to provide accurate, itemized wage statements; and
15. For reasonable attorney's fees and costs under the PAGA, Labor Code section 2699(g)(1).
16. For all such other and further relief as the Court may deem just and proper.

XII.

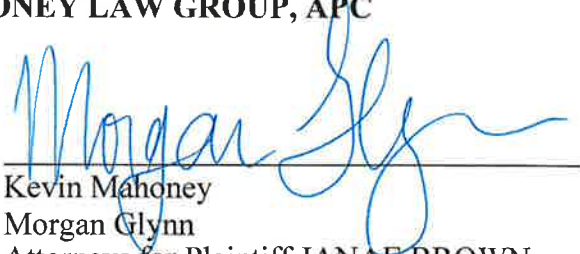
DEMAND FOR JURY TRIAL

Plaintiff JANA E BROWN hereby demands a jury trial on all issues so triable.

Dated: May 11, 2016

MAHONEY LAW GROUP, APC

By:


Kevin Mahoney
Morgan Glynn
Attorneys for Plaintiff JANA E BROWN,
individually and on behalf of all aggrieved
employees.