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SUPERIOR COURT STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

FREEDOM CHAMPION, a minor, by and
through her Guardian Ad Litem, NATHAN
CHAMPION, individually, and on behalf
of similarly situated employees

Plaintiff,

vs.

MICHELLE MOORE, LLC (D/B/A
BOBER TEA AND MOCHI DOUGH), a
California Limited Liability Company,
MICHELLE MOORE, an individual,
DOES 1-20, inclusive,

Defendants.

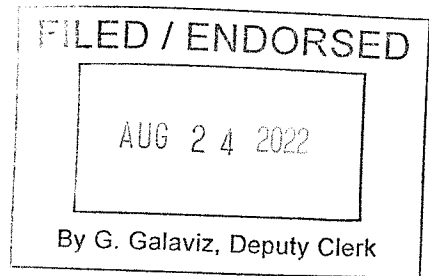
Case No.: 34-2022-00322346

CLASS ACTION COMPLAINT

**PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR DAMAGES**

BY FAX

1. **Failure to Pay Minimum Wage** (Lab. Code, §§ 1194, 1194.2, Wage Order 5)
2. **Failure to Pay Overtime** (Lab. Code, §§ 510, 1194; Wage Order 5)
3. **Failure to Provide Meal Breaks** (Labor Code § 512, Wage Order 5)
4. **Failure to Provide Rest Breaks** (Labor Code § 226.7, Wage Order 5)
5. **Failure to Reimburse Work-Related Expenses** (Lab. Code § 2802)
6. **Inaccurate Wage Statement Penalties** (Lab. Code, § 226)
7. **Failure to Timely Pay Wages During Employment** (Lab. Code, §§ 204, 210)
8. **Business and Professions Code** (Bus. and Prof. Code § 17200)
9. **Violation Child Labor Laws** (Labor Code §§ 1391, 1392)
10. **Violation of Labor Code section 1301**
11. **Waiting-Time Penalties** (Lab. Code, §§ 201-203)
12. **Private Attorneys General Act** (Labor Code § 2699, *et seq.*)



COMES NOW, FREEDOM CHAMPION, a minor, by and through her Guardian Ad Litem, NATHAN CHAMPION, on behalf of herself and similarly situated employees hereby file this Class Action Complaint against MICHELLE MOORE, LLC (D/B/A BOBER TEA and MOCHI DOUGH), a California Limited Liability Company, MICHELLE MOORE, an individual; and DOES 1-20, inclusive ("Defendants"). On information and belief, Plaintiff alleges:

NATURE OF THE ACTION

1. This is a class and Private Attorneys General Act ("PAGA") action brought by Plaintiff and similarly situated employees seeking unpaid minimum and overtime wages, reimbursement for business expenses, meal and rest period premiums, and derivative penalties for inaccurate wage statements and untimely payment of wages. Plaintiff seeks these unpaid wages and penalties, plus interest and attorneys' fees on behalf of herself and similarly situated employees. Plaintiff also seeks penalties for violations of California's labor laws regarding the employment of minors.

VENUE & JURISDICTION

2. This case is subject to the jurisdiction of this Court pursuant to the California Labor Code, California Business and Professions Code, and the California Code of Civil Procedure. The amount in controversy exceeds the jurisdictional minimum of this Court. At all times alleged herein, one or more Defendants were residents of or were doing business in, the State of California, County of Sacramento.

3. Venue in Sacramento County is proper pursuant to sections 395 and 395.5 of the Code of Civil Procedure in that at all relevant times herein, at least some of the violations of law alleged to have been committed herein occurred in Sacramento County and/or because each Defendants are found, maintain offices, or conduct substantial business in the County of Sacramento.

4. As a result of the violations alleged herein, all Defendants are subject to PAGA penalties, which Plaintiff seeks for herself and for other aggrieved current and former employees of Defendants, and the State of California. Plaintiff is an aggrieved employee within the

1 meaning of Labor Code section 2698, *et seq.*, and has complied with the pre-filing requirements
2 of PAGA. Pursuant to Labor Code section 2699.3 (a), Plaintiff gave written notice of the facts
3 and legal basis for her claims, as alleged herein, via online submission on June 1, 2022 to the
4 California Labor & Workforce Development Agency (“LWDA”) and sent notice via certified
5 mail to Defendants the same day. To date, the LWDA has not provided a response to Plaintiff’s
6 notice. As such, Plaintiff has exhausted her administrative remedies and may bring an action on
7 behalf of herself and all other similarly situated employees (*i.e.* Aggrieved Employees).
8 Similarly situated employees includes but are not limited to: all non-exempt employees who
9 have or continue to work for Defendants in California from June 1, 2021 to the present.

10 **PARTIES**

11 5. Plaintiff FREEDOM CHAMPION, by and through her Guardian Ad Litem,
12 NATHAN CHAMPION, is an individual and a resident of the State of California. At all times
13 relevant to this Complaint, Plaintiff was employed by Defendants as a front-hospitality
14 representative.

15 6. On Plaintiff’s information and belief, Defendant MICHELLE MOORE, LLC.
16 (D/B/A BOBER TEA and MOCHI DOUGH) is a California Limited Liability Company
17 organized and existing under the laws of California.

18 7. On Plaintiff’s information and belief, Defendant MICHELLE MOORE is an
19 individual and during all times relevant to this Complaint is and was the owner/sole member of
20 MICHELLE MOORE, LLC., and, as such, Defendant MICHELLE MOORE is believed to be an
21 “other person acting on behalf of an employer” within the meaning of Labor Code sections 558
22 and 558.1.

23 8. Plaintiff does not know the true names and capacities of Defendants sued in this
24 Complaint as DOES 1 through 20, inclusive, and therefore sues these Defendants by fictitious
25 names. Plaintiff will amend this Complaint to allege the true names and capacities of DOES 1
26 through 20, inclusive when ascertained. Plaintiff is informed, believes, and thereupon alleges
27 that each of the Defendants named herein as DOES 1 through 20, inclusive, is responsive in
28 some manner for the occurrence, injury, and other damages alleged in this Complaint.

9. Plaintiff is informed, believes, and thereupon alleges, that each Defendant was in some manner responsible for the acts and damages alleged herein, and/or are indebted to Plaintiff as alleged herein, and that each Defendant was the agent, employer, and co-conspirator of each other Defendant, and was acting in the course and scope of such agency and conspiracy. In this Complaint where Plaintiff refers to Defendant singularly, such reference shall be construed to be a reference to all Defendants named herein, including those named fictitiously.

CLASS ALLEGATIONS

10. Plaintiff brings the First through Eleventh Causes of Action on behalf of herself and all others similarly situated as a class action pursuant to California Code of Civil Procedure section 382. The class Plaintiff seeks to represent is composed of, and defined as follows:

All non-exempt employees who have or continue to work for Defendants in California from June 23, 2018 to the present.

11. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or modify the class description with greater specificity to further divide into subclasses or to limit to particular issues.

12. This action has been brought and is properly maintained in a class action, pursuant to the provision of the California Code of Civil Procedure section 382 because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

A. Numerosity

13. The putative class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff, she is informed and believes that Defendants have employed as many as 100 individuals falling within the above-stated class definition through the State of California during the applicable statute of limitations, who were subjected to the policies and practices outlined in this complaint. As such, the joinder of all members of the putative class is not practicable.

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1 14. Upon information and belief, Plaintiff alleges that Defendants' employment
2 records would provide information as to the number and location of all class members.

3 **B. Commonality**

4 15. Common questions of law and fact exist as to all members of the putative class
5 and predominate over questions that affect only individual members of the class. These
6 common questions of law and fact include, without limitation, the following:

- 7 1. Whether Defendants violated the California Labor Code and wage orders, by
8 failing to pay all overtime wages due;
- 9 2. Whether Defendants violated the California Labor Code and wage orders by
10 failing to pay all minimum wages due;
- 11 3. Whether Defendants had a policy and/or practice of failing to pay Plaintiff
12 and members of the putative class all overtime wages due for hours worked
13 over eight (8) hours per day and forty (40) hours per week;
- 14 4. Whether Defendants had a policy and/or practice of failing to pay Plaintiff
15 and members of the putative class minimum wages for all hours worked;
- 16 5. Whether Defendants had a policy and/or practice of failing to allow for, and
17 provide, Plaintiff and members of the putative class meal periods, as required
18 by law;
- 19 6. Whether Defendants had a policy and/or practice of failing to allow for, and
20 provide, Plaintiff and members of the putative class rest periods, as required
21 by law;
- 22 7. Whether Defendants had a policy and/or practice of failing to provide
23 reimbursement for business expenses to Plaintiff and members of the putative
24 class;
- 25 8. Whether Defendants violated the California Labor Code with respect to the
26 employment of minors, including hours and times worked, including
27 employing them without a work permit, and requiring them to work times and
28 hours that are not permitted by law;

1 9. Whether Defendants violated the California Labor Code and wage orders by
2 failing to maintain and provide Plaintiff and putative class members accurate
3 records of Plaintiff and putative class members earned wages and hours
4 worked; and

5 10. Whether as a result of Defendants' policies and practices, Plaintiff and
6 putative class members timely received all wages due and owing during their
7 employment and at the time of their termination or separation.

8 **C. Typicality**

9 16. Plaintiff's claims are typical of the claims of the members of the putative class.
10 The putative class also sustained damages arising out of Defendants' common course of conduct
11 in violation of the law as complained of herein. Plaintiff and all members of the putative class
12 were non-exempt employees who were not paid minimum and overtime wages for all hours
13 worked, were not provided meal and rest periods, and were not paid reimbursements for
14 business expenses, as required by law. Additionally, Defendants issued Plaintiff and all
15 members of the putative class wage statements that did not comply with Labor Code section
16 226. As a result, Plaintiff and each member of the putative class have suffered the same type of
17 harm and seek the same type of recovery based on the same legal theories.

18 **D. Adequacy**

19 17. Plaintiff will fairly and adequately protect the interest of the members of the
20 putative class. For all relevant times, Plaintiff resided in California and worked for Defendants
21 in California. Moreover, Plaintiff will adequately represent the putative class as she has no
22 interests that are adverse to those of the putative class members. Additionally, Plaintiff has
23 retained counsel who has substantial experience in wage and hour matters.

24 **E. Superiority**

25 18. A class action is superior to other available means for the fair and efficient
26 adjudication of the controversy since the individual joinder of all members of the putative calls
27 is impracticable. Class action treatment will permit a larger number of similarly situated persons
28 to prosecute their common claims in a single forum simultaneously, efficiently, and without the

unnecessary duplication of effort and expense that numerous individual actions would have. Moreover, as damages suffered by each individual member of the class may be relatively small, the expense and burden of the individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, and an important public interest will be severed by addressing the matter as a class action. The cost to the court system of adjudication of such individual litigation would be substantial. Individual litigation would also present the potential for inconsistent or contradictory judgments.

19. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

FACTUAL ALLEGATIONS

20. Plaintiff, a 16-year-old, began working for Defendants in or around April 8, 2022, as a front-hospitality representative, preparing and serving Boba tea and Japanese doughnuts to customers. Plaintiff is one among several employees under the age of eighteen (18) that work for Defendants across their various store locations in Sacramento and elsewhere.

21. Defendants own and operate Bober Tea, a café that serves various types of Boba tea and Japanese doughnuts in both Northern and Southern California. In their stores, Defendants employ approximately 30-40 individuals in Sacramento alone, many of which are under the age of 18 and working without a valid work permit.

22. Despite the fact that Defendants employ upwards of 26 employees across their locations, they only pay a straight-time, hourly rate of \$14.00 per hour, which is less than the currently applicable minimum wage in California. In addition, Plaintiff and similarly situated employees are not paid overtime for work over eight (8) hours per day and forty (40) hours per week.

23. Defendants also routinely require underage employees, like Plaintiff, to work beyond the hours and times allowed under California law. Furthermore, the Defendants permitted and authorized these underage employees to work without a valid work permit. Specifically, Defendants require minors, between the ages of 16-17, to work more than eight (8) hours in a 24-hour period and more than four (4) hours on school days. Additionally,

1 Defendants routinely require Plaintiff and similarly situated minors to work after 10:00 p.m. on
2 school nights.

3 24. Further, due to Defendants' policies and workflow and staffing issues, Plaintiff
4 and similarly situated employees are routinely denied uninterrupted, thirty (30) minute meal
5 breaks when they work five (5) hours or more in a single shift. Moreover, even in cases where
6 Plaintiff and similarly situated employees are able to take a meal break, this break is often well
7 after their first five (5) hours of work and/or is interrupted.

8 25. For similar reasons, Plaintiff and similarly situated employees are regularly
9 denied their ability to take 10-minute rest periods every four (4) hours or major fraction thereof.
10 In fact, Plaintiff rarely receives a ten (10) minute rest period over the course of her shift.

11 26. Finally, Plaintiff and similarly situated employees are required to use their cell
12 phones for work purposes but are not reimbursed for this use. For instance, at various points
13 during their shifts, employees are required to communicate with management over text
14 regarding work-rated matters, including cooking instructions for the doughnuts.

15 27. As a result of the Defendants' policies and practices described above, Plaintiff
16 and similarly situated employees are not provided accurate wage statements itemizing their total
17 regular and overtime hours worked and corresponding rates of pay, or the correct gross and net
18 wages earned.

19 28. Defendants also failed to timely pay Plaintiff and similarly situated employees all
20 wages owed both during their employment and upon termination or separation, including
21 minimum and overtime wages and meal and rest period premiums.

22 29. At all times relevant herein, Defendant MICHELLE MOORE was the owner
23 and/or managing agent of MICHELLE MOORE, LLC (*DBA* BOBER TEA, MOCHI DOUGH)
24 and was acting on behalf of MICHELLE MOORE, LLC, when she violated and caused to be
25 violated the below provisions of the California Labor Code.

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1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Failure to Pay Minimum Wage**
4 **(Lab. Code, §§ 1194, 1194.2, Wage Order 5)**
5 **(As to All Defendants)**

6 30. Plaintiff incorporates in this cause of action each and every allegation of the
7 preceding paragraphs, as though fully set forth herein.

8 31. Labor Code sections 1194, 1197, 1197.1 and Industrial Welfare Commission
9 (“IWC”) Wage Order 5 require employers to pay an amount equal to or greater than the
10 minimum wage for each hour worked.

11 32. Defendants failed to pay Plaintiff and similarly situated employees at least the
12 minimum wage for each hour worked.

13 33. As a direct and proximate result of Defendants’ unlawful conduct, as set forth
14 herein, Plaintiff and similarly situated employees have suffered damages, including loss of
15 earnings for time worked on behalf of Defendants.

16 34. Plaintiff and similarly situated employees request relief as described below.

17 **SECOND CAUSE OF ACTION**

18 **Failure to Pay Overtime**
19 **(Lab. Code, §§ 510, 1194; Wage Order 5)**
20 **(As to all Defendants)**

21 35. Plaintiff incorporates in this cause of action each and every allegation of the
22 preceding paragraphs, as though fully set forth herein.

23 36. Labor Code section 510 requires employers to pay overtime compensation to all
24 employees unless they are exempt from the overtime pay requirements. During all periods of
25 employment, Plaintiff and similarly situated employees were classified as non-exempt
26 employees.

27 37. Plaintiff and similarly situated employees worked in excess of eight (8) hours in a
28 workday and forty (40) hours in a workweek.

38. Defendants failed or otherwise refused to pay Plaintiff and similarly situated
employees overtime compensation for all overtime hours worked in the manner required by

1 California law.

2 39. As a direct and proximate result of Defendants' unlawful conduct, as set forth
3 herein, Plaintiff and similarly situated employees have suffered damages, including loss of
4 earnings for hours of overtime worked on behalf of Defendants.

5 40. Plaintiff and similarly situated employees request relief as described below.

6 **THIRD CAUSE OF ACTION**
7 **Failure to Provide Meal Breaks**
8 **(Lab. Code, § 512, Wage Order 5)**
9 **(As to All Defendants)**

10 41. Plaintiff incorporates in this cause of action each and every allegation of the
11 preceding paragraphs, as though fully set forth herein.

12 42. Wage Order 5 and Labor Code section 512 provide that all non-exempt
13 employees are entitled to a 30-minute, uninterrupted meal break for every 5-hour shift worked
14 by the employee and a second meal period for shifts lasting over ten (10) hours.

15 43. An employer's failure to provide an opportunity to take a meal break entitles the
16 employee to an hour of pay for each day an employer fails to provide an opportunity to take a
17 meal break.

18 44. At all times herein relevant, Plaintiff and similarly situated employees were non-
19 exempt and entitled to meal breaks.

20 45. At all times herein relevant, Defendants employed Plaintiff and similarly situated
21 employees for periods of five (5) hours or more without providing meal breaks of at least thirty
22 (30) minutes or a second meal period of at least thirty (30) minutes when Plaintiff and similarly
23 situated employees worked more than ten (10) hours in a day. Plaintiff and similarly situated
24 employees did not waive their right to meal periods throughout their employment.

25 46. Defendants further failed to compensate Plaintiff and similarly situated
26 employees for the premium wage(s) owed resulting from their failure to provide the opportunity
27 to take a meal break.

28 47. As a direct and proximate result of Defendants' unlawful conduct, as set forth
herein, Plaintiff and similarly situated employees have suffered damages, including a loss of

1 wages.

2 48. Plaintiff and similarly situated employees request relief as described below.

3 **FOURTH CAUSE OF ACTION**
4 **Failure to Provide Rest Breaks**
5 **(Labor Code § 226.7, Wage Order 5)**
6 **(As to All Defendants)**

7 49. Plaintiff incorporates in this cause of action each and every allegation of the
8 preceding paragraphs, as though fully set forth herein.

9 50. Wage Order 5 and Labor Code section 226.7 provides that all non-exempt
10 employees are entitled to at least a 10-minute rest break for each work period of more than four
11 (4) hours, or major fraction thereof.

12 51. An employer's failure to provide an opportunity to take a rest break entitles the
13 employee an hour of pay for each day an employer fails to provide an opportunity to take a rest
14 break.

15 52. At all times relevant, Plaintiff and similarly situated employees were non-exempt
16 and entitled to rest breaks.

17 53. At all times relevant, Defendants failed to authorize and permit Plaintiff and
18 similarly situated employees to take rest periods of at least 10 minutes for each work period of
19 more than four (4) hours, or major fraction thereof.

20 54. Defendants further failed to compensate Plaintiff and similarly situated
21 employees for the premium wage(s) owed resulting from their failure to provide the opportunity
22 to take rest breaks.

23 55. As a direct and proximate result of Defendants' unlawful conduct, as set forth
24 herein, Plaintiff and similarly situated employees have suffered damages, including a loss of
25 wages.

26 56. Plaintiff and similarly situated employees request relief as described below.

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FIFTH CAUSE OF ACTION
Failure to Reimburse Work-Related Expenses
(Lab. Code, § 2802)
(As to All Defendants)

57. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

58. Labor Code section 2802 requires employers to indemnify employees for any work-related expenses incurred in the discharge of their duties.

59. Plaintiff and similarly situated employees incurred expenses in the discharge of their duties, including using their cell phones for work purposes, for which Defendants failed to reimburse employees.

60. As a direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff and similarly situated employees have suffered damages, including unpaid reimbursements owed.

61. Plaintiff and similarly situated employees request relief as described below.

SIXTH CAUSE OF ACTION
Inaccurate Wage Statement Penalties
(Lab. Code, § 226)
(As to All Defendants)

62. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

63. Labor Code section 226(a) requires employers to provide employees with regular itemized written statements showing, among other things, total hours worked, all applicable hourly rates during the pay period, and the corresponding number of hours worked at each rate by the employee. Defendants knowingly and intentionally failed to provide timely, accurate itemized wage statements including this required information.

64. Labor Code § 226(e) provides that an employee suffering injury as a result of a knowing and intentional failure by an employer to comply with section 226(a) is entitled to recover 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) for each violation in a subsequent pay period,

up to a maximum amount of \$4,000.

65. Labor Code § 226(e)(2) provides that an employee is deemed to suffer injury for the purposes of Labor Code § 226 if the employer fails to provide the employee his or her wage statement.

66. Defendants knowingly and intentionally failed to provide Plaintiff and similarly situated employees with their accurate itemized wage statements.

67. Plaintiff requests relief as described below.

SEVENTH CAUSE OF ACTION
Failure to Timely Pay Wages During Employment
(Lab. Code, §§ 204, 210)
(As to All Defendants)

68. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

69. Labor Code section 204 requires employees to be paid wages at least twice per month. If an employer fails to pay wages during the proper pay period, the employee is entitled to a penalty of \$100 for an initial violation and \$200 for each subsequent or willful, or intentional violation. Additionally, the employee is entitled to 25% of the amount unlawfully withheld.

70. Defendants failed to properly and timely compensate Plaintiff and similarly situated employees all wages earned during Plaintiff's and similarly situated employees' pay period(s).

71. Defendants' acts were willful and/or intentional.

72. As a result of Defendants' conduct, Plaintiff and similarly situated employees are entitled to the penalties set forth in section 210 of the Labor Code.

73. Plaintiffs request relief as described below.

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1 **EIGHTH CAUSE OF ACTION**

2 **Unlawful Competition**
3 **(Bus. & Prof. Code, § 17200)**
4 **(As to all Defendants)**

5 74. Plaintiff incorporates in this cause of action each and every allegation of the
6 preceding paragraphs, as though fully set forth herein.

7 75. Defendants' conduct, as alleged herein, constitutes an unlawful, unfair, and/or
8 fraudulent business practices, as set forth in Business & Professions Code § 17200. Defendants
9 conducted business activities while failing to comply with the legal mandates cited herein.
10 Plaintiffs and others similarly situated suffered injury in fact and lost money as a result of
11 Defendants' unfair competition.

12 76. As a result of Defendants' unlawful and unfair business practices, Plaintiff and
13 similarly situated employees are entitled to and do seek restitution, and other appropriate relief
14 available under Business & Professions Code § 17203, on their own behalf, and on behalf of
15 others similarly situated, according to proof, for four (4) years from the filing of this Action.

16 77. Plaintiff requests relief as described below.

17 **NINTH CAUSE OF ACTION**

18 **Minor Law Violations**
19 **(Lab. Code, §§ 1391, 1392)**
20 **(As to All Defendants)**

21 78. Plaintiff incorporates in this cause of action each and every allegation of the
22 preceding paragraphs, as though fully set forth herein.

23 79. California Labor Code section 1391 requires employers to employ minors for a
24 certain number of hours and during certain times of the day. Labor code section 1391 (a) states
25 that:

26 (1) An employer shall not employ a minor 15 years of age or younger for more than eight
27 hours in one day of 24 hours, or more than 40 hours in one week, or before 7 a.m. or
28 after 7 p.m., except that from June 1 through Labor Day, a minor 15 years of age or
younger may be employed for the hours authorized by this section until 9 p.m. in
the evening.

(2) Notwithstanding paragraph (1), while school is in session, an employer shall not
employ a minor 14 or 15 years of age for more than three hours in any schoolday, nor

1 more than 18 hours in any week, nor during school hours, except that a minor enrolled in
2 and employed pursuant to a school-supervised and school-administered work experience
3 and career exploration program may be employed for no more than 23 hours, any portion
4 of which may be during school hours.

5 (3) An employer shall not employ a minor 16 or 17 years of age for more than eight
6 hours in one day of 24 hours or more than 48 hours in one week, or before 5 a.m., or
7 after 10 p.m. on any day preceding a schoolday. However, a minor 16 or 17 years of age
8 may be employed for the hours authorized by this section during any evening preceding
9 a nonschoolday until 12:30 a.m. of the nonschoolday.

10 (4) Notwithstanding paragraph (3), while school is in session, an employer shall not
11 employ a minor 16 or 17 years of age for more than four hours in any schoolday, except
12 as follows:

13 (A) The minor is employed in personal attendant occupations, as defined in the
14 Industrial Welfare Commission Minimum Wage Order No. 15 (8 Cal. Code
15 Regs. Sec. 11150) school-approved work experience, or cooperative vocational
16 education programs.

17 (B) The minor has been issued a permit to work pursuant to subdivision (c) of
18 Section 49112 of the Education Code and is employed in accordance with the
19 provisions of that permit.

20 Schoolday is defined as "any day in which a minor is required to attend school for 240
21 minutes or more."

22 80. Labor Code section 1392, further prohibits an employer from employing a person
23 under 18 years-old for more than eight (8) hours a day regardless of the time of day or time of
24 year.

25 81. For the reasons stated above, Defendants did not authorize and permit Plaintiff
26 and similarly situated under-age employees to work hours in compliance with this section.
27 Plaintiff and similarly situated under-age employees worked more than four (4) hours on
28 schooldays when school was in session and worked after ten (10) p.m. and before five (5) a.m.
on days preceding schooldays. This was in violation of the law.

82. Throughout Plaintiff's and similarly situated employees' employment with
Defendants, Defendants violated California Labor Code's Minor Laws regarding hours that
minors worked. Defendants had a practice of scheduling minors' hours that violated sections
1391 and 1392 of the California Labor Code.

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83. As a direct and proximate result of Defendants' conduct, California Labor Code sections 1391 and 1392 have been violated throughout the duration of Plaintiff's and similarly situated, minor employees' employment. Plaintiff and similarly situated minor, employees are, therefore, entitled to, and seek, penalties pursuant to California Labor Code section 1288.

84. Plaintiff requests relief as described below.

TENTH CAUSE OF ACTION

Minor Law Violations

(Lab. Code, § 1301)

(As to All Defendants)

85. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, as though fully set forth herein.

86. Labor Code section 1301 provides that “the provisions concerning the employment of the minors, and the civil penalties for violations of those provisions, are fully applicable to every person who owns or controls the real property upon which a minor is employed, whether or not that person is the minor's employer, if the minor's employment is for the benefit of that person, and the person has knowingly permitted the violation or continuation of violations.”

87. Defendants employed Plaintiff and similarly situated, minor employees in violation of Labor Code sections 1299, 1391, and 1392. Defendants failed to employ Plaintiff and similarly situated employees within the hours and times of the day allowed by said sections. Further, Defendants knew that Plaintiff and similarly situated employees were minors who did not have work permits issued from the school district.

88. Defendants were in control of the property where Plaintiff worked and where the violations of California's Minors Laws occurred. Plaintiff believe that Defendants owned the cafe where Plaintiff and similarly situated employees worked and therefore Defendants are responsible for said violations. Defendants profited from the labor of the minors while violating laws to protect minors. Thus, Defendants are responsible and liable for such violations.

89. As a direct and proximate result of Defendants' conduct, California Labor Code section 1301 has been violated throughout the duration of Plaintiffs' employment. Plaintiffs are,

1 therefore, entitled to, and seek, penalties pursuant to California Labor Code section 1288.

2 90. Plaintiff requests relief as described below.

3 **ELEVENTH CAUSE OF ACTION**

4 **Waiting-Time Penalties**

5 **(Lab. Code, § 201-203)**

6 **(As to All Defendants)**

7 91. Plaintiff incorporates in this cause of action each and every allegation of the
8 preceding paragraphs, as though fully set forth herein.

9 92. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages
10 due immediately upon discharge, or within seventy-two (72) hours of quitting without notice.
11 Labor Code § 203 provides that where an employer willfully fails to make such timely payment,
12 the employer must, as a penalty, continue to pay the subject employees' wages until the back
13 wages are paid in full or an action is commenced, up to a maximum of thirty (30) days' wages.

14 93. Plaintiff and similarly situated employees resigned or were discharged from their
15 employment without being paid all wages that were due to them within the time required by
16 Labor Code §§ 201 and 202. Defendants' failure to pay these wages has been and continues to
17 be willful.

18 94. As a result of Defendants' conduct, Plaintiff and similarly situated employees are
19 entitled to waiting time penalties in the amount of up to thirty (30) days' wages under Labor
20 Code § 203.

21 95. Plaintiff requests relief as described below.

22 **TWELFTH CAUSE OF ACTION**

23 **Private Attorneys General Act**

24 **(Lab. Code, §§ 2698, *et seq.*)**

25 **(As to All Defendants)**

26 96. Plaintiff incorporates in this cause of action each and every allegation of the
27 preceding paragraphs, as though fully set forth herein.

28 97. Plaintiff has alleged to the Labor Commissioner that Defendants have violated
the following provisions of the Labor Code in their dealings with Plaintiff and other Aggrieved

Employees:

- Violation of Labor Code §§ 1194, 510, Wage Orders (Failure to Pay Overtime);
- Violation of Labor Code § 1194 (Failure to Pay Minimum Wage);
- Violation of Labor Code § 226.7 (Rest Period Violations);
- Violation of Labor Code §§ 512, 226.7 (Meal Period Violations);
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements);
- Violation of Labor Code §§ 204, 210 (Failure to Pay all Wages During the Pay Period);
- Violation of Labor Code § 226 (Inaccurate Wage Statement Penalties);
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records);
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order);
- Violation of Labor Code §§ 1391, 1392, 1399, 1288 (Violation of Labor Laws Pertaining to Minors Under the Age of 18);
- Violation of Labor Code §§ 201-203, 256 (Waiting-Time Penalties); and
- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave at the Correct Rate of Pay)

98. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

99. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

100. As a proximate result of the Defendants' conduct, Plaintiff and Aggrieved Employees have been damaged and request relief as described below.

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PRAYER

1. For pre-judgment, post-judgment, and statutory interest and all amounts subject herein;
2. For equitable relief;
3. For special damages according to proof;
4. For costs of suit incurred in this action;
5. For attorneys' fees according to statute including, but not limited to, under Labor Code section 218.5 and Code of Civil Procedure section 1021.5;
6. For penalties according to statute;
7. For injunctive relief;
8. For all other relief that this Court deems just and proper; and
9. For tax-neutralization of damages awarded.

DREW LEWIS, PC

Dated: August 23, 2022

By: 

Drew Lewis
Attorney for Plaintiff