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Superior Court of California
County of Stanislaus
Clerk of the Court
By: Raquel Enriquez, Deputy

6 Attorneys for Plaintiff, CRISTINA BRAVO,
on behalf of herself and all others similarly situated
7

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF STANISLAUS

10
11 CRISTINA BRAVO, an individual, on
behalf of herself and all others similarly
12 situated,

13 Plaintiff,

14 vs.

15 TRINITY PERSONNEL, INC., a California
corporation; TROPICALE FOODS, LLC, a
16 California limited liability company, f/k/a
TROPICALE FOODS, INC.; and DOES 1
17 through 25, inclusive,

18 Defendants.
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Case No. CV-22-004342

Assigned: Judge John D. Freeland, Dept. 23

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- (1) Unpaid Wages
- (2) Meal Period Violations
- (3) Rest Break Violations
- (4) Unreimbursed Expenses
- (5) Failure To Provide Accurate Wage Statements
- (6) Failure To Pay All Wages Due Upon Separation
- (7) Unlawful Or Unfair Business Practices
- (8) Representative Action Under PAGA

DEMAND FOR JURY TRIAL

1 Plaintiff Cristina Bravo ("Plaintiff") brings this action on behalf of herself and others
2 similarly situated, and on information and belief alleges as follows:

3 **PARTIES, JURISDICTION AND VENUE**

4 1. Plaintiff is an individual and a resident of Stanislaus County, California.

5 2. Defendant Trinity Personnel, Inc. ("Trinity") is a California corporation.

6 3. Defendant Tropicale Foods, LLC, f/k/a Tropicale Foods, Inc. and dba La
7 Michoacana ("Tropicale Foods") is a California limited liability company.

8 4. Trinity and Tropicale Foods shall be referred to herein collectively as the
9 "Company."

10 5. Plaintiff worked for the Company as a non-exempt hourly employee. By way
11 of this Complaint, Plaintiff seeks unpaid wages, statutory penalties, and other monetary
12 relief that render this matter an "unlimited" civil case within the meaning of California law.

13 6. Plaintiff has exhausted her administrative remedies under the Private
14 Attorneys General Act of 2004 ("PAGA"), and this amended complaint asserts civil penalty
15 claims under PAGA.

16 7. The true names and capacities of the Doe Defendants (Does 1 through 25,
17 inclusive) are unknown to Plaintiff at this time and Plaintiff is informed and believes that
18 they are in some way liable for the illegal conduct, injury, and damages alleged herein. The
19 Doe Defendants are believed to be co-employers, joint-employers, responsible executives,
20 or otherwise liable for the conduct complained of herein, whether because of alter-ego status,
21 agency principles, aider and abettor (or co-conspirator) status, statutorily-imposed
22 responsibility (e.g., Labor Code section 558.1), or otherwise.

23 8. The Court has personal jurisdiction over Trinity because it is a citizen of this
24 State, does business in this State, and otherwise has minimum contacts with this State. The
25 Court has personal jurisdiction over Tropicale Foods because it is a citizen of this State, does
26 business in this State, and otherwise has minimum contacts with this State. The Court has
27 personal jurisdiction over Plaintiff because she is a resident of California and has sufficient
28 minimum contacts with this State. Venue is proper in Stanislaus County inasmuch one or

1 more current or former employees of the Class described herein (including Plaintiff) are
2 residents of Stanislaus County, and the alleged unlawful conduct and/or its effect occurred,
3 in whole or in part, in this County.

4 9. This Complaint and all claims herein invoke all forms of applicable tolling,
5 including, without limitation, the tolling provided by the Judicial Council's emergency rules.

6 **CLASS ALLEGATIONS**

7 10. Plaintiff brings this action pursuant to California Code of Civil Procedure
8 section 382, on behalf of herself and the Class described below. The Class is comprised of
9 and defined as:

10 Class: All current and former non-exempt employees of the Company
11 who have worked at a Tropicale Foods location in California at any
12 time from the period beginning four years before the filing of this
13 action until the date of certification (hereafter, the "Class Period").

14 11. The Class Period is extended further back, an additional 178 days, by virtue
15 of the tolling provided by the Judicial Council's Emergency Rule 9.

16 12. There exists a well-defined community of interest among the Class, and the
17 Class is readily ascertainable for the following reasons:

18 (a) The members of the Class are so numerous that joinder of all members
19 in a single action would not be feasible or practical. Plaintiff alleges on information and
20 belief that the members of the Class exceed one hundred (100) persons.

21 (b) Plaintiff's claims are typical of the claims of the rest of the Class, and
22 Plaintiff will fairly and adequately represent the interests of the Class.

23 (c) Common issues of fact or law predominate in this action over any
24 purported individual issues. Specifically, the following common issues of fact or law
25 predominate and make this class action superior to individual actions:

26 (i) Whether Plaintiff and the rest of the Class are entitled to recover
27 unpaid wages, damages, penalties, injunctive relief or other equitable relief on the grounds
28 that the Company has utilized uniform policies and/or practices that violated California laws

1 and regulations and caused Plaintiff and the rest of the Class to suffer the same or similar
2 injuries;

3 (ii) Whether the Company's policy or practice of having employees
4 don and/or doff off-the-clock violated California law;

5 (iii) Whether the Company's policy or practice of failing to pay for
6 all hours worked have caused Plaintiff and members of the Class to suffer lost wages under
7 California law;

8 (iv) Whether the Company has failed to provide Plaintiff and Class
9 members with legally-compliant meal periods as required by California law;

10 (v) Whether the Company has failed to provide Plaintiff and Class
11 members with the requisite meal period premiums for meal period violations as required by
12 California law;

13 (vi) Whether the Company failed to provide Plaintiff and Class
14 members with legally-compliant rest periods as required by California law;

15 (vii) Whether the Company failed to provide Plaintiff and Class
16 members with the requisite rest period premiums for rest period violations as required by
17 California law;

18 (viii) Whether the Company failed to reimburse Plaintiff and Class
19 members for the work-related expenses they incurred as required by California law;

20 (ix) Whether the Company failed to issue legally-compliant wage
21 statements to Plaintiff and Class members;

22 (x) Whether the Company failed to pay all wages due Plaintiff and
23 separated Class members as required by California law; and

24 (xi) Whether the Company failed to keep accurate records as
25 required by law;

26 (xii) Whether the Company's practices have constituted unlawful or
27 unfair practices under Business and Professions Code sections 17200 *et seq.*

28 (d) Plaintiff reserves the right under all applicable law, including Rule

1 3.765(b) of the California Rules of Court, to further divide the Class into subclasses or seek
2 certification on particular issues.

3 13. The issues which may be jointly tried in this action, when compared to any
4 purported individual issues, are so numerous and/or substantial that the maintenance of a
5 class action would be advantageous to the judicial process and the litigants. A class action
6 is superior to other means for a fair and efficient adjudication of this controversy.

7 **BACKGROUND**

8 14. Trinity is a staffing company in California. Tropicale Foods produces frozen
9 sorbets and fruit cups, including paletas, Coolstix (also known as bolis), and vasitos (cups).
10 Bravo was placed by Trinity to work at Tropicale Foods in California.

11 15. Tropicale Foods was formerly a corporation known as “Tropicale Foods, Inc.”
12 and converted to its LLC form in or about 2019. Any references to Tropicale Foods in this
13 Complaint also includes corporate predecessors such as Tropicale Foods, Inc. and any future
14 successors.

15 16. Plaintiff was both an employee of Trinity and Tropicale Foods. Under any
16 applicable standard, Tropicale Foods qualifies as an employer or joint-employer of Bravo
17 and the Class members. (See, e.g., *Martinez v. Combs* (2010) 49 Cal.4th 35, 64 [setting
18 forth three different standards].)

19 17. Among other things, Tropicale Foods had the power to exercise, and
20 exercised, sufficient control over the wages, hours, and/or working conditions of Class
21 members (Bravo included) to be deemed an employer or joint-employer of them. Indeed, at
22 Tropicale Foods, at all relevant times, there were no supervisors from Trinity present.
23 Among other things, Tropicale Foods exercised control over the schedule of employees,
24 their required protective gear, when they had to don and doff their protective gear, and when
25 and if they could take meal and rest periods. Tropicale Foods also supervised the day-to-
26 day work activities of aggrieved employees, and caused Labor Code violations herein
27 asserted. Tropicale Foods also suffered and permitted Plaintiff and the Class members to
28 work at its facilities (with no supervisors of Trinity present) with knowledge of the

1 underlying illegal circumstances and failed to prevent them from occurring.

2 18. Moreover, Tropicale Foods is independently liable under Labor Code section
3 2810.3 for the wage violations herein asserted, as it regularly uses staffing agencies,
4 including Trinity, to provide workers for activities within the usual course of Tropicale
5 Foods' business, and Tropicale Foods qualifies as a "client employer" under the statute.

6 19. Again, as used in this pleading, the term the "Company" refers to Trinity and
7 Tropicale Foods. During the Class Period, the Company maintained policies and practices
8 governing the working conditions of, and payment of wages to, Plaintiff and the rest of the
9 Class. As alleged below, these policies and practices violated California's labor laws and
10 constituted unlawful or unfair business practices under Business and Professions Code
11 sections 17200 *et seq.*

12 20. Specifically, during the Class Period, the Company committed various
13 violations of California's Labor Code and the applicable Wage Order, including the
14 following (which continue to persist):

15 (a) Off-The-Clock Work. During the Class Period, the Company has had
16 a policy or practice of having employees don and/or doff their protective gear (including
17 PPE) off-the-clock.

18 (b) Unpaid Overtime/Double-Time. During the Class Period, the Company
19 failed to pay for all hours worked and/or at the correct rate of pay, resulting in unpaid
20 overtime and/or double-time.

21 (c) Meal Period & Rest Break Violations. The Company has failed to
22 provide legally-compliant meal periods and rest breaks to Plaintiff and the rest of the Class.
23 The Company runs continuous operations, and the Company has not established or provided
24 employees with a sufficient break system in the busy environment in which they work,
25 causing repeated meal period and rest break violations. The Company has failed to pay for
26 meal and rest period premiums (at all or at the correct rate).

27 (d) Failure To Reimburse For Expenses. The Company has failed to
28 reimburse Plaintiff and the rest of the Class for work-related expenses they incurred

1 including, without limitation, protective gear such as work boots.

2 (e) Inaccurate Wage Statements. The Company failed to provide accurate
3 wage statements to Plaintiff and the rest of the Class. The Company failed to issue accurate
4 wage statements to Plaintiff and the rest of the Class as a consequence of the: (i) the off-the-
5 clock work and failure to pay for all hours worked, (ii) failure to pay overtime and double-
6 time in all the scenarios in which such pay is owed and/or inaccurate calculation of the
7 regular rate, (iii) failure to pay at all, or at the proper rate, meal and rest period premiums,
8 and (iv) compensable activities performed or compensable time spent during unpaid meal
9 periods. Moreover, the Company's wage statements have (v) failed to specify the correct
10 name and identifying information of the employee and link that correct name and identifying
11 information to the correct corresponding amount of wages that employee earned during the
12 pay period, and (vi) failed to accurately list the correct name and address of the employer,
13 in violation of Labor Code section 226(8).

14 (f) Failure To Pay All Wages Due Upon Separation From Employment.
15 The Company has failed to pay, in the final paychecks (or direct deposits) issued to them,
16 all wages due to separated employees in the Class. Specifically, the Company failed to pay
17 all wages due separated Class members as a consequence of the: (i) the off-the-clock work
18 and failure to pay for all hours worked, (ii) failure to pay overtime and double-time in all the
19 scenarios in which such pay is owed and/or inaccurate calculation of the regular rate, (iii)
20 failure to pay at all, or at the proper rate, meal and rest period premiums, and (iv)
21 compensable activities performed or compensable time spent during unpaid meal periods.
22 The deficiencies in final pay were "willful" within the meaning of Labor Code section 203.

23 (g) Recordkeeping Violations. The Company was required to keep
24 accurate records showing the names and addresses of its employees, the hours worked by,
25 and wages paid, to its employees; as well as accurate itemized wage statements; however,
26 the Company failed to do so in violation of its recordkeeping obligations.

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1 **FIRST CAUSE OF ACTION**

2 Unpaid Wages

3 (Against The Company and Does 1 through 25, inclusive)

4 21. Plaintiff re-alleges and incorporates by reference herein the allegations set
5 forth in Paragraphs 1 through 20 inclusive.

6 22. At all relevant times, Plaintiff and Class members were non-exempt
7 employees of the Company entitled to the full protections of the Labor Code and of the Wage
8 Orders.

9 23. Labor Code section 1198 makes it unlawful for an employer to employ any
10 person under conditions of employment that violate the Wage Orders.

11 24. Section 2(K) of the IWC Wage Orders define “hours worked” as the “time
12 during which an employee is subject to the control of the employer, and includes all the time
13 the employee is suffered or permitted to work, whether or not required to do so.”

14 25. Labor Code sections 1194 and 1197, and Section 4 of the IWC Wage Orders,
15 require employers to pay their non-exempt employees at least the California minimum wage
16 for each hour worked.

17 26. Labor Code sections 510 and 1194, and Section 3 of the IWC Wage Orders,
18 require employers to pay overtime wages to their non-exempt employees at no less than one
19 and one-half times their regular rates of pay for all hours worked in excess of eight hours in
20 one workday, all hours worked in excess of forty hours in one workweek, and for the first
21 eight hours worked on a seventh consecutive workday.

22 27. Labor Code sections 510 and 1194, and Section 3 of the IWC Wage Orders,
23 also require employers to pay overtime wages to their non-exempt employees at no less than
24 two times their regular rates of pay (*i.e.*, double-time) for all hours worked in excess of
25 twelve hours in one workday, and for all hours worked in excess of eight hours on a seventh
26 consecutive workday.

27 28. Labor Code sections 204 and 218 require employers to pay the earned wages
28 of their employees, including straight-time wages, on a timely and periodic basis.

1 29. At all relevant times, the Company failed to pay Plaintiff and other Class
2 members at least the California minimum wage for each hour worked, failed to pay them
3 straight-time pay for all hours worked, and failed to pay them all the overtime (including
4 double-time) wages due to them, by maintaining policies and/or practices that failed to
5 compensate employees for all hours worked.

6 30. Among other things, before starting their shift, Class members have been
7 required to retrieve and don their Company-required protective gear (including, without
8 limitation, boots, robes/aprons, goggles, and hairnets) before they have clocked in to work.
9 At all material times, the policy at Tropicale Foods and/or its practice has been for Class
10 members to be donned in their protective gear and ready-to-work before they clock in.
11 Similarly, on information and belief, Class members had to doff their protective gear off-
12 the-clock and engage in other forms of off-the-clock compensable work, including (without
13 limitation) during unpaid meal period time.

14 31. Plaintiff and Class members are entitled to recover the unpaid balance of the
15 full amount of unpaid wages owed, including the California minimum wage, straight-time,
16 overtime, and double-time, including interest thereon, as well as reasonable attorney's fees
17 and costs of suit pursuant to Labor section 1194. Furthermore, under Labor Code section
18 1194.2, Plaintiff and Class members are entitled to recover liquidated damages in an amount
19 equal to the California minimum wages unlawfully unpaid and interest thereon. On
20 information and belief, Plaintiff also alleges that the Company intentionally failed to pay the
21 minimum wage due Plaintiff and Class members, and, therefore, Plaintiff and Class
22 members are entitled to penalties pursuant to Labor Code section 1197.1. Plaintiff and Class
23 members are entitled to recover all damages, penalties and other remedies available for a
24 violation of Labor Code section 1197 and the General Minimum Wage Order.

25 **SECOND CAUSE OF ACTION**

26 Meal Period Violations

27 (Against the Company and Does 1 through 25, inclusive)

28 32. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 31

1 inclusive as though fully set forth herein.

2 33. Under California law, all non-exempt employees who work more than five (5)
3 hours in a day are entitled to take a full 30-minute duty-free meal period. Any meal period
4 must be started no later than after five (5) hours of work. (Labor Code, § 512, subd. (a);
5 IWC Wage Orders § 11.)

6 34. Under California law, all non-exempt employees who work more than ten (10)
7 hours in a day are entitled to take a second duty-free meal period of thirty (30) minutes. Any
8 second meal period must be started no later than after ten (10) hours of work. (Labor Code,
9 § 512, subd. (a); IWC Wage Orders, § 11.)

10 35. Under California law, employers are forbidden from requiring employees to
11 work during a meal period mandated pursuant to California statutory law or mandated by
12 the IWC Wage Orders. (Labor Code, § 226.7(a).)

13 36. Under California law, employers must provide an employee with an additional
14 hour of pay for each workday that an employee is not provided with a meal period "in
15 accordance with" California statutory law or the IWC Wage Orders. (Labor Code, §
16 226.7(c).)

17 37. Plaintiff and the rest of the Class were non-exempt employees who worked
18 more than (5) hours in a shift for the Company and were entitled to meal periods that
19 conformed with California law.

20 38. At all relevant times, Plaintiff and other Class members did not waive their
21 legally-mandated meal periods.

22 39. At all relevant times, the Company failed to provide Plaintiff and other Class
23 members a timely, uncontrolled, duty-free uninterrupted meal period of at least thirty (30)
24 minutes when Plaintiff and other Class members worked more than five (5) hours.

25 40. At all relevant times, the Company failed to provide Plaintiff and other Class
26 members a second timely, uncontrolled, duty-free uninterrupted meal period of at least thirty
27 (30) minutes when Plaintiff and other Class members worked more than ten (10) hours.

28 41. At all relevant times, the Company failed to pay Plaintiff and/or other Class

1 members all the required meal period premium pay to which they were entitled as a result
2 of all the meal period violations.

3 42. The Company runs continuous operations, and has not established or provided
4 employees with a sufficient break system in the busy environment in which they work,
5 causing employees to routinely take delayed or shortened meal periods or forgo them
6 altogether. Because of the continuous production operations, employees frequently have to
7 wait to be relieved before they can depart from their positions for a meal period, leading to
8 (among other things) late meal periods.

9 43. The Company did not pay Plaintiff or Class members the one hour of premium
10 pay (at all or at the correct rate) for the first and second meal period violations to which they
11 were entitled.

12 44. The Company's non-provision of compliant meal periods, and the Company's
13 non-payment of the requisite meal period premiums, violated and is actionable under Labor
14 Code section 512, subdivision (a), and Labor Code sections 226.7, subdivisions (b) & (c).

15 45. As a result of the Company's violation of California's meal period rules,
16 Plaintiff and the rest of the Class are entitled to, among other things, one (1) hour of pay at
17 the employee's regular rate of pay for each workday in which a meal period violation
18 occurred.

19 **THIRD CAUSE OF ACTION**

20 Rest Break Violations

21 (Against The Company and Does 1 through 25, inclusive)

22 46. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 45
23 inclusive as though fully set forth herein.

24 47. Under California law, employers must authorize and permit all non-exempt
25 employees to take a "net" 10-minute rest period for every four (4) hours worked, or major
26 fraction thereof. (IWC Wage Orders, § 12(A).) More specifically, employers must authorize
27 and permit non-exempt employees to take one 10-minute rest break for shifts from three and
28 one-half (3 ½) hours to six (6) hours in length, two 10-minute rest breaks for shifts of more

1 than six (6) hours up to ten (10) hours in length, three 10-minute rest breaks for shifts of
2 more than ten (10) hours up to fourteen (14) hours in length, and so on. (*Brinker Restaurant*
3 *Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1029.) In terms of the timing of rest breaks,
4 employers must authorize and permit the taking of rest breaks "in the middle of each work
5 period." (IWC Wage Orders, § 12(A).)

6 48. Employers must provide employees with "suitable resting facilities" (Wage
7 Orders, §13(B)) that are "away from the work station" (DLSE Enforcement Manual, §
8 45.3.3). An employee's rest period starts from the moment the employee can reach an area
9 of rest away from the work station and be free from employer control. (*Vaquero v.*
10 *Stoneledge Furniture, LLC* (2017) 9 Cal.App.5th 98, 112 [a rest period "begins when the
11 employee reaches an area away from the work station that is appropriate for rest"]; *Augustus*
12 *v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 273 ["California law requires employers
13 to relieve their employee of all work-related duties and employer control during 10-minute
14 rest periods"].)

15 49. Under California law, it is illegal for an employer to require an employee to
16 work during a rest period that is mandated by California statutory law or an IWC Wage
17 Order. (Labor Code, § 226.7(b).)

18 50. Under California law, employers must provide an employee with an additional
19 one (1) hour of pay for each workday that an employee is not provided with a rest period "in
20 accordance with" California statutory law or IWC Wage Orders. (Labor Code, § 226.7(c).)

21 51. At all relevant times, Plaintiff and the rest of the Class worked 3.5 hours or
22 more in a shift for the Company and were entitled to rest breaks that conformed with
23 California law.

24 52. At all relevant times, Plaintiff and the rest of the Class did not waive their
25 legally-mandated rest breaks.

26 53. At all relevant times, the Company failed to provide Plaintiff and the rest of
27 Class members with timely, uncontrolled, uninterrupted rest periods of at least ten (10)
28 minutes for every four (4) hours worked, or major fraction thereof. The Company failed to

1 provide Plaintiff and the Class members with first, second, and third rest breaks that
2 complied with California law.

3 54. At all relevant times, the Company failed to pay Plaintiff or other members of
4 the Class all the required rest period premium pay for all the rest period violations.

5 55. Plaintiff and Class members were routinely denied legally-compliant rest
6 periods.

7 56. The Company runs continuous operations, and the Company has not
8 established or provided employees with a sufficient break system in the busy environment
9 in which they work, causing employees to routinely take delayed or shortened rest periods
10 or forgo them altogether. Because of the continuous production operations, employees
11 frequently have to wait to be relieved before they can depart from their positions for a rest
12 period, leading to (among other things) late rest periods.

13 57. The Company did not pay Plaintiff or other Class members the one hour of
14 premium pay (at all or at the correct rate) for rest period violations to which they were
15 entitled.

16 58. The Company's non-provision of compliant rest periods, and the Company's
17 non-payment of the requisite rest period premiums, violated and is actionable under Labor
18 Code sections 226.7 subdivisions (b) & (c).

19 59. As a result of the Company's violation of California's rest period rules,
20 Plaintiff and the rest of the Class are entitled to, among other things, one (1) hour of pay at
21 the employee's regular rate of pay for each workday in which a rest period violation
22 occurred.

23 **FOURTH CAUSE OF ACTION**

24 Unreimbursed Expenses

25 (Against The Company and Does 1 through 25, inclusive)

26 60. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 59
27 inclusive as though fully set forth herein.

28 61. At all relevant times, Labor Code section 2802 required and continues to

1 require employers to fully reimburse employees for expenses incurred in the discharge of
2 their work-related duties or while carrying out the directions of their employer. At all
3 material times, the Company failed to reimburse Plaintiff and Class members for all their
4 reimbursable expenses.

5 62. Among other things, Plaintiff and other Class members were required by the
6 Company to purchase protective gear for work, including (without limitation) work boots
7 without reimbursement.

8 63. In addition to other appropriate relief, Plaintiff and other Class members are
9 entitled to full reimbursement of all expenses owed, plus interest, attorney's fees and costs,
10 as provided for in Labor Code section 2802.

11 **FIFTH CAUSE OF ACTION**

12 Failure To Provide Accurate Wage Statements

13 (Against The Company and Does 1 through 25, inclusive)

14 64. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 63 as
15 though fully set forth herein.

16 65. Labor Code section 226, subdivision (a), requires that employers (such as the
17 Company) furnish to their employees, semi-monthly or at the time of each payment of
18 wages, an accurate itemized statement in writing showing the "(1) gross wages earned, (2)
19 total hours worked by the employee ..., (3) the number of piece-rate units earned and any
20 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, ..., (5)
21 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
22 the name of the employee and only the last four digits of his or her social security number
23 or an employee identification number other than a social security number, (8) the name and
24 address of the legal entity that is the employer and, ... , and (9) all applicable hourly rates in
25 effect during the pay period and the corresponding number of hours worked at each hourly
26 rate by the employee[.]"

27 66. At all relevant times, Labor Code section 226(a) applied to the Company's
28 employment of Plaintiff and the rest of the Class.

1 67. At all relevant times, the Company knowingly and intentionally failed to
2 provide Plaintiff and the rest of the Class with accurate itemized wage statements as required
3 by Labor Code section 226.

4 68. The Company's wage statements have failed to accurately display the
5 information required by Labor Code section 226.

6 69. As a result of the off-the-clock work, failure to pay at all, or at the proper rate,
7 meal and rest period premiums, and the compensable activities performed or compensable
8 time spent during unpaid meal periods, the Company failed to provide Bravo and other
9 aggrieved employees with accurate wage statements that accurately reflected their total
10 hours worked (violating Labor Code § 226(a)(2)), their gross wages earned (violating Labor
11 Code § 226(a)(1)), their net wages earned (violating Labor Code § 226(a)(5)), and their
12 applicable rates of pay and hours worked at those rates (violating Labor Code § 226(a)(9)).

13 70. In addition, the Company's wage statements have failed to specify the correct
14 name and identifying information of the employee and link that correct name and identifying
15 information to the correct corresponding amount of wages that employee earned during the
16 pay period. Among other things, wage statements were issued to Plaintiff with incorrect
17 identifying information and days/hours missing from her pay, violating Labor Code section
18 226(a)(1), (2), (5), and (7). On information and belief, other Class members experienced the
19 same errors.

20 71. On information and belief, the Company's wage statements fail to accurately
21 list the correct name and address of the employer, in violation of Labor Code section 226(8).
22 Among other things, the Company's wage statements fail to accurately reference the actual
23 name of the employer entities and/or their correct address.

24 72. Plaintiff and the rest of the Class have suffered the requisite injury as result of
25 the Company's violations of Labor Code section 226, violations which precluded Plaintiff
26 and Class members from being able to "promptly and easily" determine from the wage
27 statements alone one or more the statutorily-required items of information. Moreover,
28 Plaintiff and Class members have been damaged by the wage statement violations.

73. Pursuant to Labor Code section 226 subdivision (e), Plaintiff and the rest of the Class are entitled to recover statutory penalties, or damages, from the Company for the wage statement violations, as well as attorney's fees and costs.

SIXTH CAUSE OF ACTION

Failure To Pay All Wages Due Upon Separation

(Against the Company and Does 1 through 25, inclusive)

74. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 73 inclusive as though fully set forth herein.

75. At all relevant times, Labor Code sections 201 and 202 applied to the Company and imposed time requirements on tendering to a discharged or quitting employee their final wages. At all relevant times, Labor Code section 201 provided that, if an employer discharged an employee, the employee's wages earned and unpaid at the time of discharge are due and payable immediately. At all relevant times, Labor Code section 202 provided that, if an employee quits without giving 72 hours advance notice, all of his or her wages are due within 72 hours of quitting; if an employee quits and provides 72 hours or more of advance notice, all of his or her wages are due at the time of quitting.

76. The Company willfully failed to pay separated employees in the Class all their wages due in violation of Labor Code sections 201 and 202.

77. Among other things, as a result of the alleged off-the-clock work, failure to pay at all, or at the proper rate, meal and rest period premiums, and the compensable activities performed or time spent during unpaid meal periods, the Company did not provide separated employees with final pay that contained all wages due to them under California law

78. At all relevant times, Labor Code section 203 provided that, if employers (such as the Company) willfully fail to pay any wages of an employee who is discharged or quits in the time required by Labor Code section 201 or 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced, but the wages shall not continue for more than thirty (30) days.

1 Accordingly, separated employees in the Class are entitled to receive statutory penalties up
2 to a maximum of thirty (30) days, as well as attorney's fees and costs, under Labor Code
3 section 203.

4 **SEVENTH CAUSE OF ACTION**

5 Unfair Or Unlawful Business Practices

6 (Against The Company and Does 1 through 25, inclusive)

7 79. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 78
8 inclusive as though fully set forth herein.

9 80. At all relevant times, the Company's practices, as alleged above, have been
10 unfair, unlawful, and harmful to Plaintiff, others similarly situated, and the general public.
11 The Company's above-alleged practices constitute violations of Business and Professions
12 Code sections 17200 *et seq.* A practice that violates any state law or regulation may
13 constitute the basis of an unlawful business practice prohibited by Business and Professions
14 Code sections 17200 *et seq.*

15 81. Among other things, the following practices of the Company constitute unfair
16 or unlawful business practices:

- 17 a. The failure to pay all wages due as alleged above;
- 18 b. The failure to provide legally-compliant meal periods, and pay proper
19 premiums for non-compliant meal periods as alleged above;
- 20 c. The failure to provide legally-compliant rest periods, and pay proper
21 rest-period premiums for non-compliant rest periods as alleged above;
- 22 d. The failure to reimburse Plaintiff and Class members for their work-
23 related expenses as alleged above;
- 24 e. The Company's failure to provide accurate wage statements as alleged
25 above;
- 26 f. The Company's failure to pay all the wages due separated employees
27 as alleged above; and
28

1 g. The Company's failure to keep and maintain accurate records as
2 required by law, including, inter alia, Labor Code section 1174(d), as alleged above and as
3 further discussed below.

4 82. The Company has committed numerous recordkeeping maintenance and
5 production obligations, all of which constitute unfair, deceptive, and/or unlawful business
6 practices.

7 83. Trinity and Tropicale Foods have failed to maintain at all, for the duration
8 required by law, and/or in a complete and accurate manner, personnel files of Class
9 Members, records of the hours worked by Class members, copies of their wage statements,
10 records of their hours worked, records of their paid sick days accrued and used, and records
11 of their names and addresses. Consequently, Trinity and Tropicale Foods have both violated
12 Labor Code section 1198.5(c), Labor Code section 226(a), Labor Code section 247.5(a),
13 Labor Code section 1174(c) & (d), and Labor Code section 432.

14 84. Among other things, Trinity and Tropicale Foods failed to keep an accurate
15 record of Plaintiff's name, associated address, and hours worked (violating Labor Code
16 sections 1174(c) and (d) and 247.4(c)). Wage statements (and a W-2) were issued to Plaintiff
17 with incorrect identifying information and days/hours missing from her pay, violating Labor
18 Code section 226(a). On information and belief, other Class members experienced the same
19 errors.

20 85. The Company was required to keep, in a centralized location, three years'
21 worth of accurate records showing the hours worked by, and wages paid, to its employees;
22 however, the Company failed to do so in violation of Labor Code § 1174(d). The off-the-
23 clock work, failure to pay at all, or at the proper rate, meal and rest period premiums, and
24 the compensable activities performed or compensable time spent during unpaid meal
25 periods, rendered these records inaccurate and incomplete.

26 86. The Company was also required to maintain, for three years at a central
27 location within the state of California, copies of wage statements that comply with Labor
28 Code § 226(a). The Company's wage statements were inaccurate, deficient, or otherwise

1 non-compliant with Labor Code § 226(a) as discussed above. Thus, the Company did not
2 keep the records required by law.

3 87. Plaintiff, through counsel, requested in writing that Trinity and Tropicale
4 Foods provide her copies of her personnel file, wage statements, time records, records
5 showing her accrual and use of paid sick leave, and documents she signed in connection
6 with her employment. Both Trinity and Tropicale Foods failed to provide any records in
7 response to the requests, a failure which continues to persist. Consequently, Trinity and
8 Tropicale Foods have both violated Labor Code section 1198.5(a),(b), and (c), Labor Code
9 section 226 (b) and (c), Labor Code section 247.5(a), and Labor Code section 432

10 88. Pursuant to Business and Professions Code sections 17200 *et seq.*, Plaintiff
11 and the rest of the Class are entitled to restitution of wages and other property held by the
12 Company and/or other relief requiring the Company (and any other responsible parties) to
13 pay all wages and other sums due to them and maintain and produce the records required by
14 law. Plaintiff and the rest of the Class lack an adequate remedy at law.

15 89. Plaintiff meets the standing requirements for seeking relief pursuant to
16 Business and Professions Code section 17203, in that she has suffered injury in fact and has
17 lost money as a result of the Company's actions, as more fully set forth in this pleading.

18 **EIGHT CAUSE OF ACTION**

19 **Representative Action Under PAGA**

20 (Against The Company and Does 1 through 25, inclusive)

21 90. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 89
22 inclusive as though fully set forth herein.

23 91. Pursuant to Labor Code section 2699.3, Plaintiff, on behalf of herself and all
24 other aggrieved employees, brings this action as a representative action under PAGA for
25 civil penalties based on violations of the California Labor Code and the applicable IWC
26 Wage Order(s).

27 92. Plaintiff has timely and adequately exhausted her administrative remedies
28 under PAGA. Plaintiff submitted her PAGA Notice to the LWDA on July 29, 2022

1 (incorporated herein in full by reference and attached hereto as **Exhibit A**), provided a copy
2 of the same to the Company via certified mail, and waited the requisite 65-day time-period
3 before filing this PAGA action in court.

4 93. Pursuant to Labor Code section 2699.5, Plaintiff asserts this non-class
5 representative action on behalf of herself and other aggrieved employees for civil penalties
6 for, among others, the following violations, all of which are alleged in Plaintiff's PAGA
7 Notice:

- 8 a. The failure to produce required records and the failure to maintain
9 them;
- 10 b. Off-the-clock work;
- 11 c. Meal period violations;
- 12 d. Rest break violations;
- 13 e. Wage statement violations;
- 14 f. Unlawful recordkeeping;
- 15 g. The failure to pay all wages due upon separation from employment;
- 16 and
- 17 h. Unreimbursed expenses;

18 94. Labor Code section 2699(f)(2), in turn, provides that the default civil penalties
19 recoverable under PAGA for such violations are "one hundred dollars (\$100) for each
20 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200)
21 for each aggrieved employee per pay period for each subsequent violation," except where
22 the Labor Code specifically provides for another penalty. In addition to or apart from the
23 default civil penalties PAGA provides, Plaintiff seeks, through PAGA, any other civil
24 penalties available under the Labor Code (including, without limitation, Labor sections
25 226.3, 558, and 1174.5) for the above-alleged violations of the Labor Code and/or applicable
26 IWC Wage Order(s).

27 ///

28 ///

1 **PRAYER**

2 WHEREFORE, Plaintiff requests judgment as follows:

3 **On The First Cause Of Action**

4 1. For all recoverable damages and unpaid wages, including unpaid minimum
5 wages, straight-time pay, overtime wages, and double-time wages;

6 2. For liquidated damages pursuant to Labor Code § 1194.2;

7 **On The Second Cause Of Action**

8 3. For premium pay for meal period violations under Labor Code § 226.7;

9 **On The Third Cause Of Action**

10 4. For premium pay for rest period violations under Labor Code § 226.7;

11 **On The Fourth Cause Of Action**

12 5. For the full reimbursement of expenses owed, including interest thereon, under
13 Labor Code § 2802;

14 **On The Fifth Cause Of Action**

15 6. For statutory penalties under Labor Code § 226;

16 7. For actual damages incurred as a result of the wage statement violations,
17 according to proof;

18 **On The Sixth Cause of Action**

19 8. For statutory penalties under Labor Code § 203, up to the statutory amount;

20 **On The Seventh Cause Of Action**

21 9. For restitution of all unpaid wages, straight-time, overtime, double-time,
22 minimum wages, premium pay, and other monies withheld from Plaintiff and the rest of the
23 Class together with the disgorgement of any profits received as a result of the Company's
24 unlawful or unfair business practices;

25 10. For declaratory relief declaring that the Company has failed to maintain
26 records required by law and any available injunctive relief to require compliance with
27 recordkeeping obligations;

28 ///

1 **On The First Through Seventh Causes Of Action**

2 11. For a certification of the action as a class action, and for entry of judgment in
3 favor of the Class;

4 **On The Eighth Cause Of Action**

5 12. For all forms of relief and civil penalties recoverable under PAGA;

6 13. For judgment in favor of the aggrieved employees;

7 **On All Causes Of Action**

8 14. For attorney's fees and costs pursuant to Civil Code § 1021.5, all provisions of
9 the Labor Code that authorize attorney's fees and costs (including, e.g., Labor Code §§ 226,
10 203, 1194(a), 1194.3, 2802, 3287, 3289, and PAGA), the "common fund" theory, the
11 "substantial benefit" theory, the "catalyst" theory, and/or any other applicable statutory
12 provision, regulatory provision, theory or doctrine;

13 15. For prejudgment and postjudgment interest on all amounts owing,
14 commencing from the date such amounts were due; and

15 16. For all such other relief as the Court deems just and proper.

16 Dated: October 3, 2022

SCHEPPACH BAUER PC

17
18 By: _____

19 JOHN M. SCHEPPACH
20 Attorneys for Plaintiff,
 CRISTINA BRAVO, on behalf of herself
 and all others similarly situated

21
22 **DEMAND FOR JURY TRIAL**

23 Plaintiff demands a trial by jury on all claims and causes of action so triable.

24 Dated: October 3, 2022

SCHEPPACH BAUER PC

25
26 By: _____

27 JOHN M. SCHEPPACH
28 Attorneys for Plaintiff,
 CRISTINA BRAVO, on behalf of herself
 and all others similarly situated