

1 Bevin Allen Pike (SBN 221936)
Bevin.Pike@capstonelawyers.com
2 Daniel S. Jonathan (SBN 262209)
Daniel.Jonathan@capstonelawyers.com
3 Trisha K. Monesi (SBN 303512)
Trisha.Monesi@capstonelawyers.com
4 Capstone Law APC
1875 Century Park East, Suite 1000
5 Los Angeles, California 90067
Telephone: (310) 556-4811
6 Facsimile: (310) 943-0396

7 Attorneys for Plaintiff Maria Rodriguez De Paz

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11
12 MARIA RODRIGUEZ DE PAZ, as
an aggrieved employee pursuant to the
13 Private Attorneys General Act
("PAGA"), on behalf of the State of
14 California and other non-party
Aggrieved Employees,

15 Plaintiff,

16 vs.

17 HOSPITALITY STAFFING
18 SOLUTIONS, LLC, a Delaware
limited liability company;
19 KELLERMEYER BERGENSONS
SERVICES, LLC, a Delaware limited
20 liability company; and DOES 1
through 10, inclusive,

21 Defendants.
22

Case No.: **22STCV32521**

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Maria Rodriguez De Paz, as an aggrieved employee and on behalf of the State
2 of California and all other non-party Aggrieved Employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations of
9 any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order
11 were committed, as set forth in this complaint, at any time between one year prior to the filing
12 of the pre-filing written notice to the Labor and Workforce Development Agency (“LWDA”) in
13 this case on July 26, 2022, until judgment (“non-party Aggrieved Employees”). Plaintiff’s
14 share of civil penalties sought in this action does not exceed \$75,000.

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional notions
22 of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this
23 action given that the State of California, as the real party in interest in this action, is not a
24 “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726
25 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated
26 to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action,
27 and that diversity jurisdiction cannot be established when Plaintiff’s share of the civil penalties
28 attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court because Defendants employ or employed persons within the County of Los Angeles and have violated the requirements of the California Labor Code and applicable IWC Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and applicable IWC Wage Order in at least one location within the County of Los Angeles, including Defendants' office located in Los Angeles (7128 Pacific Blvd., 2nd Floor Suite F1, Los Angeles, California 90255). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in Los Angeles County, and Plaintiff could bring an action filed under PAGA in any county in which an aggrieved employee worked and Labor Code violations occurred, venue is proper. *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal. App. 5th 1069 (2021).

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Maria Rodriguez De Paz is a resident of Moreno Valley, in Riverside County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately September 2021 to February 2022. Plaintiff worked for Defendants as an Operator in Defendants' client's facility in Riverside County, California. Plaintiff typically worked eight (8) hours per day and five (5) days per week. At the time Plaintiff's employment with Defendants ended, she was compensated approximately \$17.00 per hour. As an Operator, Plaintiff's job duties included, without limitation, preparing crate machinery for daily use, inspecting machinery for safety, stacking crates, and cleaning work areas.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute an arbitration agreement at the time of their hire or during their

1 employment. On further information and belief, Defendants' arbitration agreement was and is
2 both procedurally and substantively unconscionable. Specifically, Defendants presented
3 employees with an "Arbitration Agreement" ("Arbitration Agreement") during the onboarding
4 process, which had to be reviewed and acknowledged immediately. Specifically, the Arbitration
5 Agreement was one of several documents presented to new employees for signature during the
6 orientation process, including Employment Offer Letter, Drug and Alcohol Testing Consent
7 Form, and Uniform Policies, among other documents. Also, employees did not have a
8 meaningful opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was
9 provided to Defendants' employees for them to sign on a take-it or leave-it basis, along with all
10 of the other on-boarding documents. Further, Defendants did not set forth in the agreement or
11 otherwise provide employees with the rules which will govern the arbitration, instead forcing
12 employees to seek this information out on their own ("The AAA [American Arbitration
13 Association] Rules and Mediation Procedures in effect at the time the Agreement is signed will
14 apply to the arbitration Those rules are available here:
15 <https://www.adr.org/sites/default/files/Employment%20Rules.pdf>. A copy will be provided
16 **upon request.**" [emphasis added]).

17 8. HOSPITALITY STAFFING SOLUTIONS, LLC was and is, upon information
18 and belief, a Delaware limited liability company, and at all times hereinafter mentioned, an
19 employer whose employees are engaged throughout this county, the State of California.

20 9. KELLERMEYER BERGENSONS SERVICES, LLC was and is, upon
21 information and belief, a Delaware limited liability company, and at all times hereinafter
22 mentioned, an employer whose employees are engaged throughout this county, the State of
23 California.

24 10. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
25 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the
26 complaint and serve such fictitiously named Defendants once their names and capacities
27 become known.

28 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10

1 were the partners, agents, owners, or managers of HOSPITALITY STAFFING SOLUTIONS,
2 LLC and KELLERMEYER BERGENSONS SERVICES, LLC, at all relevant times.

3 12. Plaintiff is informed and believes, and thereon alleges, that each and all of the
4 acts and omissions alleged herein was performed by, or is attributable to, HOSPITALITY
5 STAFFING SOLUTIONS, LLC; KELLERMEYER BERGENSONS SERVICES, LLC; and/or
6 DOES 1 through 10 (collectively, “Defendants” or “HSS”), each acting as the agent, employee,
7 alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants
8 and was acting within the course and scope of such agency, employment, joint venture, or
9 concerted activity with legal authority to act on the others’ behalf. The acts of any and all
10 Defendants were in accordance with, and represent, the official policy of Defendants.

11 13. At all relevant times, Defendants, and each of them, ratified each and every act
12 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
13 and abetted the acts and omissions of each and all the other Defendants in proximately causing
14 the damages herein alleged.

15 14. Plaintiff is informed and believes, and thereon alleges, that each of said
16 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
17 omissions, occurrences, and transactions alleged herein.

18 15. Under California law, Defendants are jointly and severally liable as employers
19 for the violations alleged herein because they have each exercised sufficient control over the
20 wages, hours, working conditions, and employment status of Plaintiff and other non-party
21 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
22 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
23 of employment, determined their rate of pay, and maintained their employment records.
24 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
25 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a common-
26 law employment relationship. As joint employers of Plaintiff and other non-party Aggrieved
27 Employees, Defendants are jointly and severally liable for the civil penalties available to
28 Plaintiff and other non-party Aggrieved Employees under the law.

1 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
2 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
3 non-party Aggrieved Employees because Defendants have:

- 4 (a) jointly exercised meaningful control over the work performed by Plaintiff
5 and other non-party Aggrieved Employees;
- 6 (b) jointly exercised meaningful control over Plaintiff's and other non-party
7 Aggrieved Employees' wages, hours, and working conditions, including
8 the quantity, quality standards, speed, scheduling, and operative details
9 of the tasks performed by Plaintiff and other non-party Aggrieved
10 Employees;
- 11 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
12 perform work which is an integral part of Defendants' businesses; and
- 13 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
14 Employees as a matter of economic reality in that Plaintiff and other non-
15 party Aggrieved Employees were dependent on Defendants, who shared
16 the power to set the wages of Plaintiff and other non-party Aggrieved
17 Employees and determined their working conditions, and who jointly
18 reaped the benefits from the underpayment of their wages and
19 noncompliance with other statutory provisions governing their
20 employment.

21 17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
22 there has existed a unity of interest and ownership between Defendants such that any
23 individuality and separateness between the entities has ceased.

24 18. HOSPITALITY STAFFING SOLUTIONS, LLC; KELLERMEYER
25 BERGENSONS SERVICES, LLC; and/or DOES 1 through 10 are therefore alter egos of each
26 other.

27 19. Adherence to the fiction of the separate existence of Defendants would permit an
28 abuse of the corporate privilege, and would promote injustice by protecting Defendants from

1 liability for the wrongful acts committed by them under the name HSS.

2 20. Plaintiff further alleges, upon information and belief, that the Defendants
3 HOSPITALITY STAFFING SOLUTIONS, LLC and KELLERMEYER BERGENSONS
4 SERVICES, LLC are alter egos of each other for the following reasons:

5 (a) According to Defendants HOSPITALITY STAFFING SOLUTIONS,
6 LLC's website (<https://www.hssstaffing.com/history/>), HOSPITALITY
7 STAFFING SOLUTIONS, LLC was acquired by KELLERMEYER
8 BERGENSONS SERVICES, LLC in 2020;

9 (b) On information and belief, HOSPITALITY STAFFING SOLUTIONS,
10 LLC and KELLERMEYER BERGENSONS SERVICES, LLC together
11 specialize in staffing the hospitality, facility, and janitorial services
12 industries; and

13 (c) On information and belief, HOSPITALITY STAFFING SOLUTIONS,
14 LLC and KELLERMEYER BERGENSONS SERVICES, LLC utilize the
15 same standardized employment forms and issue the same employment
16 policies.

17 **PAGA REPRESENTATIVE ALLEGATIONS**

18 21. Defendants are Delaware limited liability companies. Defendants operate at least
19 eight staffing agency locations in California. Upon information and belief, Defendants maintain
20 a single, centralized Human Resources (HR) department at their corporate headquarters in
21 Atlanta, Georgia, for all non-exempt, hourly paid employees working for Defendants in
22 California, which is responsible for the recruiting and hiring of new employees, and
23 communicating and implementing Defendants' company-wide policies, including timekeeping
24 policies and meal and rest period policies, to employees throughout California.

25 22. In particular, Plaintiff and other non-party Aggrieved Employees, on information
26 and belief, received the same standardized documents and/or written policies. Upon
27 information and belief, the usage of standardized documents and/or written policies, including
28 new-hire documents, indicate that Defendants dictated policies at the corporate level and

1 implemented them company-wide, regardless of their employees' assigned locations or
2 positions. Upon information and belief, Defendants set forth uniform policies and procedures
3 in several documents provided at an employee's time of hire.

4 23. Upon information and belief, Defendants maintain a centralized Payroll
5 department at their corporate headquarters in Atlanta, Georgia, which processes payroll for all
6 non-exempt, hourly paid employees working for Defendants at their various locations and
7 jobsites in California, including Plaintiff and other non-party Aggrieved Employees. Based
8 upon information and belief, Defendants issue the same formatted wage statements to all non-
9 exempt, hourly paid employees in California, irrespective of their work locations. Upon
10 information and belief, Defendants process payroll for departing employees in the same manner
11 throughout the State of California, regardless of the manner in which each employee's
12 employment ends.

13 24. Defendants continue to employ non-exempt or hourly paid employees in
14 California.

15 25. Plaintiff is informed and believes, and thereon alleges, that at all times herein
16 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
17 advisors knowledgeable about California labor and wage law, employment and personnel
18 practices, and about the requirements of California law.

19 26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
20 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
21 were not recorded.

22 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
24 receive certain wages for overtime compensation and that they were not receiving certain wages
25 for overtime compensation.

26 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
28 receive at least minimum wages for compensation and that they were not receiving at least

1 minimum wages for work that was required to be done off-the-clock. In violation of the
2 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
3 least minimum wages for work done off-the-clock.

4 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
6 meal periods in accordance with the California Labor Code and applicable IWC Wage Order or
7 payment of one (1) additional hour of pay at their regular rates of pay when they were not
8 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other
9 non-party Aggrieved Employees were not provided with all meal periods or payment of one (1)
10 additional hour of pay at their regular rates of pay when they did not receive a timely,
11 uninterrupted, thirty (30) minute meal period.

12 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to rest
14 periods in accordance with the California Labor Code and applicable IWC Wage Order or
15 payment of one (1) additional hour of pay at their regular rates of pay when they were not
16 authorized and permitted to take a compliant rest period. In violation of the California Labor
17 Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to
18 take compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved
19 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
20 they were not authorized and permitted to take a compliant rest period.

21 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
23 receive complete and accurate wage statements in accordance with California law. In violation
24 of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not
25 provided complete and accurate wage statements.

26 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that they had a duty to maintain accurate and complete payroll records in
28 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,

1 and intentionally failed to do so.

2 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
4 timely payment of wages during their employment. In violation of the California Labor Code,
5 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
6 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period
7 premiums, within permissible time periods.

8 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
10 timely payment of all wages earned upon termination of employment. In violation of the
11 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
12 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
13 and/or meal and rest period premiums, within permissible time periods.

14 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
16 receive reimbursement for all business-related expenses and costs they incurred during the
17 course and scope of their employment and that they did not receive reimbursement of applicable
18 business-related expenses and costs incurred.

19 36. Plaintiff is informed and believes, and thereon alleges, that at all times herein
20 mentioned, Defendants knew or should have known that Defendants had a duty to provide
21 Plaintiff and other non-party Aggrieved Employees with written notice of the material terms of
22 their employment with Defendants as required by the California Wage Theft Prevention Act,
23 but failed to do so.

24 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
26 and other non-party Aggrieved Employees for all hours worked, and that Defendants had the
27 financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to
28 do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees that they

1 were properly denied wages, all in order to increase Defendants' profits.

2 38. At all times herein set forth, PAGA provides that any provision of law under the
3 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
4 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
5 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
6 behalf of themselves and other current or former employees pursuant to procedures outlined in
7 California Labor Code section 2699.3.

8 39. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
9 person who was employed by the alleged violator and against whom one or more of the alleged
10 violations was committed."

11 40. Plaintiff and other current and former employees of Defendants are "aggrieved
12 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
13 or former employees and one or more of the alleged violations were committed against them.

14 41. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
15 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
16 requirements have been met:

17 (a) The aggrieved employee shall give written notice by online filing
18 (hereinafter "Employee's Notice") to the LWDA and by certified mail to
19 the employer of the specific provisions of the California Labor Code
20 alleged to have been violated, including the facts and theories to support
21 the alleged violations.

22 (b) An aggrieved employee's notice filed with the LWDA pursuant to
23 2699.3(a) and any employer response to that notice shall be accompanied
24 by a filing fee of seventy-five dollars (\$75).

25 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the
26 employer and the aggrieved employee by certified mail that it does not
27 intend to investigate the alleged violation within sixty (60) calendar days
28 of the postmark date of the Employee's Notice. Upon receipt of the

1 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
2 (65) calendar days of the postmark date of the Employee's Notice, the
3 aggrieved employee may commence a civil action pursuant to California
4 Labor Code section 2699 to recover civil penalties in addition to any other
5 penalties to which the employee may be entitled.

6 42. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
7 through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision
8 other than those listed in Section 2699.5 after the following requirements have been met:

9 (a) The aggrieved employee or representative shall give written notice by
10 online filing to the LWDA and by certified mail to the employer of the
11 specific provisions of the California Labor Code alleged to have been
12 violated (other than those listed in Section 2699.5), including the facts
13 and theories to support the alleged violation.

14 (b) An aggrieved employee's notice filed with the LWDA pursuant to
15 2699.3(c) and any employer response to that notice shall be accompanied
16 by a filing fee of seventy-five dollars (\$75).

17 (c) The employer may cure the alleged violation within thirty-three (33)
18 calendar days of the postmark date of the notice. The employer shall give
19 written notice by certified mail within that period of time to the aggrieved
20 employee or representative and the agency if the alleged violation is
21 cured, including a description of actions taken, and no civil action
22 pursuant to Section 2699 may commence. If the alleged violation is not
23 cured within the 33-day period, the employee may commence a civil
24 action pursuant to Section 2699.

25 43. On July 26, 2022, Plaintiff provided written notice by online filing to the LWDA
26 and by certified mail to Defendants of the specific provisions of the California Labor Code
27 alleged to have been violated, including facts and theories to support the alleged violations, in
28 accordance with California Labor Code section 2699.3. Plaintiff's written notice was

1 accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
2 Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA
3 Case Number LWDA-CM-897793-22. A true and correct copy of Plaintiff's written notice to
4 the LWDA and Defendants dated July 26, 2022, is attached hereto as "Exhibit 1."

5 44. As of the filing date of this complaint, over 65 days have passed since Plaintiff
6 sent the written notice described above, and the LWDA has not responded that it intends to
7 investigate Plaintiff's claims, and Defendants have not cured the violations.

8 45. Thus, Plaintiff has satisfied the administrative prerequisites under California
9 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
10 violations of California Labor Code sections 201, 201.3, 202, 204, 226(a), 226.7, 510, 512(a),
11 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

12 46. Labor Code section 558(a) provides "[a]ny employer or other person acting on
13 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
14 provision regulating hours and days of work in any order of the Industrial Welfare Commission
15 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
16 each underpaid employee for each pay period for which the employee was underpaid. . . . (2)
17 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
18 each pay period for which the employee was underpaid. . . ." Labor Code section 558(c)
19 provides "[t]he civil penalties provided for in this section are in addition to any other civil or
20 criminal penalty provided by law." Plaintiff, acting in the public interest as a private attorney
21 general, seeks assessment and collection of civil penalties under Labor Code section 558 for
22 herself, all other non-party Aggrieved Employees, and the State of California against
23 Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable
24 IWC Wage Order. Plaintiff, acting in the public interest as a private attorney general, does not
25 seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations
26 of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC Wage Order.

27 47. Defendants, at all times relevant to this complaint, were employers or persons
28 acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved

1 Employees' rights by violating various sections of the California Labor Code as set forth above.

2 48. As set forth below, Defendants have violated numerous provisions of both the
3 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
4 Order.

5 49. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
6 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private
7 attorney general, seeks assessment and collection of civil penalties for herself, all other non-
8 party Aggrieved Employees, and the State of California against Defendants for violations of
9 California Labor Code sections 201, 201.3, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d),
10 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

11 **FIRST CAUSE OF ACTION**

12 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

13 **(Against all Defendants)**

14 50. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
15 and every allegation set forth above.

16 51. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
17 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
18 2699.5. Section 2699.5 enumerates Labor Code sections 201, 201.3, 202, 204, 226(a), 226.7,
19 510, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section 2699.3(c) permits
20 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor
21 Code sections not found in section 2699.5, including sections 516, 1182.12, and 2810.5.

22 52. Defendants' conduct, as alleged herein, violates numerous sections of the
23 California Labor Code, including, but not limited to, the following:

24 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
25 Wage Order for Defendants' failure to compensate Plaintiff and other
26 non-party Aggrieved Employees with all required overtime pay, as set
27 forth below;

28 (b) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the

1 applicable IWC Wage Order for Defendants' failure to compensate
2 Plaintiff and other non-party Aggrieved Employees with at least
3 minimum wages for all hours worked, as set forth below;

4 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
5 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
6 and other non-party Aggrieved Employees with meal periods, as set forth
7 below;

8 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable
9 IWC Wage Order for Defendants' failure to authorize and permit Plaintiff
10 and other non-party Aggrieved Employees to take rest periods, as set forth
11 below;

12 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
13 IWC Wage Order for failure to provide accurate and complete wage
14 statements to Plaintiff and other non-party Aggrieved Employees, as set
15 forth below;

16 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
17 IWC Wage Order for failure to maintain payroll records, as set forth
18 below;

19 (g) Violation of Labor Code sections 201.3 and 204 for failure to pay all
20 earned wages during employment, as set forth below;

21 (h) Violation of Labor Code section 201, 201.3, and 202 for failure to pay all
22 earned wages upon termination, as set forth below;

23 (i) Violation of Labor Code sections 2802 for failure to reimburse Plaintiff
24 and other non-party Aggrieved Employees for all business expenses
25 necessarily incurred, as set forth below; and

26 (j) Violation of Labor Code section 2810.5 for failure to provide notice of
27 material terms of employment, as set forth below.

28 ///

1 **FAILURE TO PAY OVERTIME**

2 **VIOLATION OF LABOR CODE SECTIONS 510 AND 1198**

3 53. Labor Code section 1198 makes it illegal to employ an employee under
4 conditions of labor that are prohibited by the applicable wage order. California Labor Code
5 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
6 be the . . . standard conditions of labor for employees. The employment of any employee . . .
7 under conditions of labor prohibited by the order is unlawful.”

8 54. California Labor Code section 1198 and the applicable IWC Wage Order provide
9 that it is unlawful to employ persons without compensating them at a rate of pay either time-
10 and-one-half or two-times that person’s regular rate of pay, depending on the number of hours
11 worked by the person on a daily or weekly basis.

12 55. Specifically, the applicable IWC Wage Order provides that Defendants are and
13 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
14 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
15 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
16 hours in a workweek.

17 56. The applicable IWC Wage Order further provides that Defendants are and were
18 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
19 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
20 An employee’s regular rate of pay includes all remuneration for employment paid to, or on
21 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

22 57. California Labor Code section 510 codifies the right to overtime compensation
23 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
24 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
25 (7th) day of work, and to overtime compensation at twice the employee’s regular rate of pay for
26 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
27 the seventh (7th) day of work.

28 58. During the relevant time period, Defendants willfully failed to pay all overtime

1 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
2 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
3 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
4 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
5 not recorded.

6 59. First, during the relevant period, Defendants had, and continue to have, a
7 company-wide policy and/or practice of discouraging and impeding Plaintiff and other non-
8 party Aggrieved Employees from recording hours worked that were outside of their scheduled
9 shifts, in order to limit the amount of overtime employees could accrue. On information and
10 belief, this policy of limiting overtime, coupled with Defendants' practice of understaffing and
11 assignment of heavy workloads, deadlines, and productivity requirements, led Plaintiff and
12 other non-party Aggrieved Employees to work off-the-clock before and after their scheduled
13 shift times in order to complete their assigned tasks. For example, Defendants required Plaintiff
14 and other non-party Aggrieved Employees to prepare a minimum of two pallets, with 160 boxes
15 stacked on each pallet before the end of a shift. Approximately twice per week, Plaintiff was
16 required to clock out and continue working for up to 15 minutes to complete the preparation of
17 pallets at the request of management. When this occurred, Plaintiff was unable to record this
18 off-the-clock work because Defendants' management prohibited her from recording these
19 overtime hours. This off-the-clock work could have been recorded by Defendants, but they
20 refused to do so to avoid payment of overtime wages to Plaintiff and other non-party Aggrieved
21 Employees.

22 60. Further, during the relevant period, Defendants implemented, on a company-
23 wide basis, an employer-imposed requirement that other non-party Aggrieved Employees
24 undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in
25 for their scheduled shifts. Prior to their shifts, employees were required to spend time filling
26 out a health screening form and undergoing a temperature check, before being permitted to
27 clock in for their shifts. Even though Defendants required these health screenings, Defendants
28 did not provide other non-party Aggrieved Employees a mechanism to record this time worked

1 so they could be compensated for the time spent undergoing mandatory temperature checks
2 and/or health screenings.

3 61. Second, Defendants' company-wide policies and/or practices of understaffing
4 their job sites while assigning heavy workloads and deadlines resulted in a failure to provide
5 Plaintiff and/or other non-party Aggrieved Employees with adequate meal period coverage to
6 permit them to take compliant meal periods. Defendants also failed to schedule meal periods,
7 which further caused Plaintiff and/or other non-party Aggrieved Employees to not be relieved
8 of their duties for compliant meal periods. As a result, other non-party Aggrieved Employees
9 missed meal periods and/or had meal periods cut short or interrupted in order to handle their
10 workloads. Further, on information and belief, because Defendants frowned upon employees
11 accruing meal period penalties, Defendants pressured employees to clock out for meal periods
12 and/or adjusted their time records to reflect compliant meal periods, even when they did not
13 receive a compliant meal period. Consequently, other non-party Aggrieved Employees
14 performed work during meal periods for which they were not paid.

15 62. Defendants knew or should have known that, as a result of these company-wide
16 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
17 their assigned duties during meal periods and while off-the-clock, and were suffered or
18 permitted to perform work for which they were not paid. Because Plaintiff and other non-party
19 Aggrieved Employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week
20 or more, some of this off-the-clock work qualified for overtime premium pay. Therefore,
21 Plaintiff and other non-party Aggrieved Employees were not paid overtime wages for all of the
22 overtime hours they actually worked.

23 63. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
24 the balance of overtime compensation as required by California law, violates the provisions of
25 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
26 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558
27 and/or 2699(a), (f), and (g).

28 ///

1 **FAILURE TO PAY MINIMUM WAGES**

2 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

3 64. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
4 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to
5 be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
6 Compensable work time is defined in IWC Wage Order No. 9-2001 as “the time during which
7 an employee is subject to the control of an employer, and includes all the time the employee is
8 suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8,
9 § 11090(2)(H) (defining “Hours Worked”).

10 65. As set forth above, as a result of Defendants’ company-wide practice of
11 restricting overtime accrual by not recording hours worked that were outside of employees’
12 scheduled shifts, Defendants systematically failed to pay Plaintiff and other non-party
13 Aggrieved Employees for actual hours worked before and after their scheduled shifts, because
14 these hours were not accurately recorded. Thus, Plaintiff and/or other non-party Aggrieved
15 Employees were required to perform work off-the-clock before and after their scheduled shifts,
16 including completing work-related tasks and submitting to mandated pre-shift COVID-19
17 temperature checks and health screenings, but were not compensated for this time.
18 Additionally, as set forth above, due to Defendants’ uniform practices of understaffing;
19 assigning heavy workloads, deadlines, and productivity requirements; failing to schedule meal
20 periods; and the resulting lack of coverage, Plaintiff and/or other non-party Aggrieved
21 Employees were impeded from taking all uninterrupted meal periods to which they were entitled
22 and were required to work off-the-clock. Moreover, as stated, in order to limit meal penalties
23 that Defendants would otherwise owe, Defendants pressured employees to clock out for meal
24 periods and/or adjusted their time records to reflect compliant meal periods, but required them
25 to continue working, time for which they were not paid.

26 66. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
27 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did not
28 qualify for overtime premium payment, Defendants did not pay at least minimum wages for

1 those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194,
2 1197, and 1198.

3 67. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
4 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
5 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
6 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

7 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
8 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

9 68. At all relevant times herein set forth, the applicable IWC Wage Order and
10 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
11 non-party Aggrieved Employees' employment by Defendants.

12 69. At all relevant times herein set forth, California Labor Code section 512(a)
13 provides that an employer may not require, cause, or permit an employee to work for a period
14 of more than five (5) hours per day without providing the employee with a meal period of not
15 less than thirty (30) minutes, except that if the total work period per day of the employee is not
16 more than six (6) hours, the meal period may be waived by mutual consent of both the employer
17 and the employee. Under California law, first meal periods must start after no more than five
18 hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

19 70. At all relevant times herein set forth, California Labor Code sections 226.7,
20 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
21 meal period mandated by an applicable order of the IWC.

22 71. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
23 and the applicable IWC Wage Order also require employers to provide a second meal period of
24 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
25 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
26 hours worked is no more than twelve (12) hours, the second meal period may be waived by
27 mutual consent of the employer and the employee only if the first meal period was not waived.

28 72. As set forth above, Defendants had, and continue to have, a company-wide policy

1 and/or practice of understaffing their locations while simultaneously assigning heavy
2 workloads, deadlines, and productivity requirements, which resulted in a lack of meal period
3 coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all
4 timely, uninterrupted meal periods to which they were entitled. Further, Defendants had a
5 company-wide practice of failing to schedule meal periods, which further prevented Plaintiff
6 and other non-party Aggrieved Employees from taking all compliant meal periods. As a result
7 of Defendants' practices and/or policies, Plaintiff and other non-party Aggrieved Employees
8 were forced to work in excess of five (5) hours before taking a meal period and, at times, had
9 their meal periods interrupted, and/or had to forgo their meal periods altogether. For example,
10 approximately three (3) times per week, Plaintiff was unable to take her meal period until her
11 sixth hour of work, in order to meet productivity requirements and finish her assigned duties.

12 73. Furthermore, as set forth above, on information and belief, because Defendants
13 frowned upon employees accruing meal period penalties, Defendants' management pressured
14 Plaintiff and other non-party Aggrieved Employees to clock out for meal periods and/or adjusted
15 their time records to reflect compliant meal periods, even when they did not receive a compliant
16 meal period, in order to strictly limit meal penalties that Defendants would otherwise owe. For
17 example, at Defendants' management direction, Plaintiff would log that her meal period had
18 been taken within the first five (5) hours of her shift, even though she was unable to take her
19 meal periods until after her sixth hour of work.

20 74. Moreover, Defendants did not provide Plaintiff and other non-party Aggrieved
21 Employees with second 30-minute meal periods on days that they worked in excess of 10 hours
22 in one day. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period
23 waivers on days that they were entitled to meal periods and were not relieved of all duties.

24 75. Moreover, Defendants had a company-wide policy of requiring all newly hired
25 employees to sign blanket meal period waivers at or near their time of hire. Defendants took the
26 position that non-exempt, hourly paid employees had waived their rights to first and/or second
27 meal periods for the entirety of their employment and, on that basis, did not provide them with all
28 meal periods to which they were entitled. Moreover, Defendants' meal period waiver form

1 requires employees provide written notice should they wish to revoke the waiver. Defendants’
2 presumption that meal periods would not be provided for shifts in excess of five (5) hours but less
3 than six (6) hours, and for shifts in excess of ten (10) hours but less than twelve (12) hours due to
4 blanket meal period waivers signed at or near the time of hire, and imposition on employees to
5 revoke the waivers in writing, discouraged and impeded Plaintiff and other non-party Aggrieved
6 Employees from taking all meal periods to which they were entitled.

7 76. Furthermore, an employer’s obligation to provide a meal period is only “triggered”
8 when the employer “employs an employee for a work period of more than five hours per day.”
9 *Brinker*, 53 Cal. 4th at 1039 (“If an employer engages, suffers, or permits anyone to work for a
10 full five hours, its meal break obligation is triggered.”).

11 [A]fter the meal break obligation is triggered . . . an employer is put to a
12 choice: it must (1) afford an off-duty meal period; (2) consent to a mutually
13 agreed-upon waiver if one hour or less will end the shift; or (3) obtain
14 written agreement to an on-duty meal period if circumstances permit.
Failure to do one of these will render the employer liable for premium pay.

15 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants
16 required Plaintiff and other non-party Aggrieved Employees to sign meal period waivers
17 simultaneously at or near their time of hire (as opposed to on a specific work day) renders them
18 invalid and unenforceable, because Defendants’ obligation to provide Plaintiff and other non-
19 party Aggrieved Employees with meal periods did not arise until they had employed them for a
20 full five (5) hours.

21 77. At all times mentioned herein, Defendants knew or should have known that as a
22 result of their policies, Plaintiff and other non-party Aggrieved Employees were not actually
23 relieved of all duties to take timely, uninterrupted meal periods. Defendants further knew or
24 should have known that they did not pay Plaintiff and other non-party Aggrieved Employees
25 meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

26 78. Furthermore, Defendants engaged in a company-wide practice and/or policy of
27 not paying all meal period premiums owed when compliant meal periods are not provided.
28 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have

1 not received premium pay for missed, late, and interrupted meal periods.

2 79. Defendants' conduct violates the applicable IWC Wage Order, and California
3 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
4 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558
5 and/or 2699(a), (f), and (g).

6 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

7 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

8 80. At all relevant times herein set forth, the applicable IWC Wage Order and
9 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
10 non-party Aggrieved Employees' employment by Defendants.

11 81. At all relevant times, the applicable IWC Wage Order provides that "[e]very
12 employer shall authorize and permit all employees to take rest periods, which insofar as
13 practicable shall be in the middle of each work period" and that the "rest period time shall be
14 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
15 hours or major fraction thereof" unless the total daily work time is less than three and one-half
16 (3 ½) hours.

17 82. At all relevant times, California Labor Code section 226.7 provides that no
18 employer shall require an employee to work during any rest period mandated by an applicable
19 order of the California IWC. To comply with its obligation to authorize and permit rest periods
20 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
21 must "relinquish any control over how employees spend their break time, and relieve their
22 employees of all duties—including the obligation that an employee remain on call. A rest
23 period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th
24 257, 269-270 (2016).

25 83. Pursuant to the applicable IWC Wage Order and California Labor Code section
26 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
27 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
28 required rest period was not authorized and permitted.

1 84. During the relevant time period, Defendants regularly failed to authorize and
2 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest period
3 per each four (4) hour period worked or major fraction thereof. As with meal periods,
4 Defendants' company-wide policies and/or practices, including understaffing and assigning
5 heavy workloads, deadlines, and productivity requirements, prevented Plaintiff and other non-
6 party Aggrieved Employees from being relieved of all duty to take their rest periods.
7 Additionally, Defendants failed to schedule rest periods, which, coupled with Defendants'
8 failure to provide adequate rest period coverage, further led to Plaintiff and other non-party
9 Aggrieved Employees not being authorized and permitted to take rest periods.

10 85. Furthermore, Defendants maintained a company-wide on-premises rest period
11 policy, which effectively required that Plaintiff and other non-party Aggrieved Employees
12 remain on or near the work premises during their rest periods. Because Plaintiff and other non-
13 party Aggrieved Employees were restricted from leaving the premises during rest periods, they
14 were denied the ability to use their rest periods freely for their own purposes, such as running
15 personal errands. Thus, Defendants effectively maintained control over Plaintiff and other non-
16 party Aggrieved Employees during rest periods.

17 86. As a result of Defendants' practices and policies, Plaintiff and other non-party
18 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess
19 of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were
20 entitled. For example, throughout her employment, Plaintiff had to forego many of her rest
21 periods altogether due to the heavy workload and deadlines assigned to her.

22 87. Defendants have also engaged in a systematic, company-wide practice and/or
23 policy of not paying rest period premiums owed when rest periods are not authorized and
24 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
25 Employees have not received premium pay for all missed rest periods.

26 88. Accordingly, Defendants failed to authorize and permit all compliant rest periods
27 and failed to pay the full rest period premiums due. Defendants' conduct violates the applicable
28 IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Plaintiff and other

1 non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to
2 Labor Code sections 558 and/or 2699(a), (f), and (g).

3 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**

4 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

5 89. At all relevant times herein, California Labor Code section 226(a) provides that
6 every employer shall furnish each of his or her employees an accurate and complete itemized
7 wage statement in writing, including, but not limited to, the name and address of the legal entity
8 that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable
9 rates of pay.

10 90. During the relevant time period, Defendants have knowingly and intentionally
11 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
12 inaccurate wage statements. For example, Defendants issued uniform wage statements to
13 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
14 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during
15 the pay period, including rates of pay for overtime wages and/or meal and rest period premiums,
16 and the corresponding number of hours worked at each hourly rate. Specifically, Defendants
17 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

18 91. Because Defendants did not record the time Plaintiff and other non-party
19 Aggrieved Employees spent working off-the-clock and deducted time from their records for
20 meal periods that were interrupted and/or missed (and therefore time for which they should have
21 been paid), Defendants did not list the correct amount of gross wages and net wages earned by
22 Plaintiff and other non-party Aggrieved Employees in compliance with section 226(a)(1) and
23 section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the
24 total number of hours worked by Plaintiff and other non-party Aggrieved Employees, in
25 violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during
26 the pay period and the corresponding accurate number of hours worked at each hourly rate, in
27 violation of section 226(a)(9).

28 92. The wage statement deficiencies also include, among other things, failing to list

1 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
2 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
3 which aggrieved employees were paid; failing to list the name of the employee and only the last
4 four digits of his or her social security number or an employee identification number other than
5 a social security number; failing to list the name and address of the legal entity that is the
6 employer; and/or failing to state all hours worked as a result of not recording or stating the hours
7 they worked off-the-clock.

8 93. California Labor Code section 1174(d) provides that “[e]very person employing
9 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
10 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
11 plants or establishments at which employees are employed, payroll records showing the hours
12 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
13 applicable piece rate paid to, employees employed at the respective plants or
14 establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500
15 civil penalty if they fail to maintain accurate and complete records as required by section
16 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
17 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-party
18 Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a
19 result of failing to record the off-the-clock hours that they worked.

20 94. California Labor Code section 1198 provides that the maximum hours of work
21 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
22 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
23 of any employees for longer hours than those fixed by the order or under conditions of labor
24 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
25 are required to keep accurate time records showing when the employee begins and ends each
26 work period and meal period. During the relevant time period, Defendants engaged in company-
27 wide practices and/or policies of failing to record actual hours worked (including falsifying time
28 records by recording that compliant meal periods were taken regardless of if or when meal

1 periods were actually taken), and thereby failed to keep accurate records of work period and
2 meal period start and stop times for Plaintiff and other non-party Aggrieved Employees, in
3 violation of section 1198. Furthermore, in light of Defendants' failure to provide other non-
4 party Aggrieved Employees with second 30-minute meal periods to which they were entitled,
5 Defendants kept no records of meal start and end times for second meal periods.

6 95. Defendants' conduct violates California Labor Code 226(a), 1174(d), and 1198.
7 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
8 penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

9 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

10 **VIOLATION OF LABOR CODE SECTION 201.3 AND 204**

11 96. At all relevant times herein set forth, California Labor Code section 204 requires
12 that all wages earned by any person in any employment between the 1st and the 15th days,
13 inclusive, of any calendar month, other than those wages due upon termination of an employee,
14 are due and payable between the 16th and the 26th day of the month during which the labor was
15 performed. Labor Code section 204 further provides that all wages earned by any person in any
16 employment between the 16th and the last day, inclusive, of any calendar month, other than
17 those wages due upon termination of an employee, are due and payable between the 1st and the
18 10th day of the following month.

19 97. At all relevant times herein, California Labor Code section 204 also requires that
20 all wages earned for labor in excess of the normal work period shall be paid no later than the
21 payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor
22 Code section 204 provides that the requirements of this section are deemed satisfied by the
23 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
24 than seven (7) calendar days following the close of the payroll period.

25 98. At all relevant times herein, California Labor Code section 201.3 requires that if
26 an employee of a temporary services employer is assigned to work for a client, that employee's
27 wages are due and payable no less frequently than weekly, regardless of when the assignment
28 ends, and wages for work performed during any calendar week shall be due and payable not

1 later than the regular payday of the following calendar week.

2 99. During the relevant time period, Defendants willfully failed to pay Plaintiff and
3 other non-party Aggrieved Employees all wages due to them within any time period specified
4 by California Labor Code sections 201.3 and/or 204 including, but not limited to, overtime
5 wages, minimum wages, and/or meal and rest period premiums.

6 100. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
7 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

8 **FAILURE TO PAY WAGES UPON TERMINATION**

9 **VIOLATION OF LABOR CODE SECTIONS 201, 201.3, AND 202**

10 101. At all times relevant herein set forth, Labor Code sections 201, 201.3, and 202
11 provide that if an employer discharges an employee, the wages earned and unpaid at the time of
12 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
13 her employment, his or her wages shall become due and payable not later than seventy-two (72)
14 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his
15 or her intention to quit, in which case the employee is entitled to his or her wages at the time of
16 quitting.

17 102. On information and belief, Defendant has a company-wide practice or policy of
18 paying departing employees their final wages on the next regular pay cycle, instead of adhering
19 to the time requirements set forth in Labor Code sections 201 and 202. For example, Plaintiff
20 did not receive her final pay until one (1) week after being terminated by Defendants. Thus,
21 Defendants failed to pay Plaintiff her final wages immediately, in violation of California Labor
22 Code section 201 and/or 201.3.

23 103. Additionally, Defendants willfully failed to pay Plaintiff and other non-party
24 Aggrieved Employees who are no longer employed by Defendants the earned and unpaid wages
25 set forth above, including but not limited to, overtime wages, minimum wages, and/or meal and
26 rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their
27 leaving Defendants' employ.

28 104. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees

1 who are no longer employed by Defendants their wages earned and unpaid at the time of
2 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor
3 Code sections 201 and 201.3. Plaintiff and other non-party Aggrieved Employees are therefore
4 entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and
5 (g).

6 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

7 **VIOLATION OF LABOR CODE SECTION 2802**

8 105. At all times herein set forth, California Labor Code section 2802 provides that
9 an employer must reimburse employees for all necessary expenditures and losses incurred by
10 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
11 to prevent employers from passing off their cost of doing business and operating expenses on
12 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
13 (2014). The applicable wage order, IWC Wage Order No. 9-2001, provides that: "[w]hen tools
14 or equipment are required by the employer or are necessary to the performance of a job, such
15 tools and equipment shall be provided and maintained by the employer, except that an employee
16 whose wages are at least two (2) times the minimum wage provided herein may be required to
17 provide and maintain hand tools and equipment customarily required by the trade or craft."
18 IWC Wage Order No. 9-2001 further provides that: "[w]hen uniforms are required by the
19 employer to be worn by the employee as a condition of employment, such uniforms shall be
20 provided and maintained by the employer."

21 106. First, during the relevant time period, Defendants, on a company-wide basis,
22 required that Plaintiff and other non-party Aggrieved Employees use their own personal mobile
23 devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job
24 duties, but failed to reimburse them for the costs of their work-related mobile device expenses.
25 For example, Plaintiff used her personal cellular phone to photograph completed pallets and
26 send those pictures to her manager. Although Defendants required Plaintiff and other non-party
27 Aggrieved Employees to utilize their personal mobile devices and/or mobile data to carry out
28 their work-related responsibilities, Defendants failed to reimburse them for this cost.

107. Second, during the relevant time period, Defendants expected Plaintiff and other non-party Aggrieved Employees to “be in full uniform daily, [with the] uniform regularly cleaned and free of stains upon arrival at work each day while assigned with Defendants.” Furthermore, Defendants’ written uniform policy states, “Once issued, company uniforms become the employee’s responsibility for maintenance and care” Plaintiff and other non-party Aggrieved Employees were thus required to report to work wearing clean and presentable uniforms bearing the company logo, including uniform shirts and safety vests, on a daily basis. However, Defendants did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, Defendants only provided Plaintiff with one (1) shirt and one (1) safety vest at the beginning of her employment. Because Defendants failed to provide Plaintiff with an adequate number of uniform items in relation to her scheduled shifts and for the tasks she was required to perform, Plaintiff was forced to wash her uniform items more frequently than she would otherwise do laundry and incur expenses in doing so. For example, due to the nature of work involved in operating machinery, Plaintiff’s uniform items would become stained with dirt and grime, such that she was unable to mix these clothes in with her other laundry. As a result, she had to wash her uniform items separately from any other clothing items and thus incurred additional utility and laundry expenses for the upkeep of her uniforms. Thus, Defendants failed to maintain the uniforms they required Plaintiff and other non-party Aggrieved Employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

108. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with the actual tools for use on the job, such as company mobile devices, and access to laundering services. Or, Defendants could have reimbursed employees for their mobile device usage, and laundering expenses or provided a uniform maintenance allowance. Instead, Defendants passed these operating costs off onto Plaintiff and other non-party Aggrieved Employees. At all relevant times, Plaintiff did not earn at least two (2) times the minimum wage.

109. Defendants’ company-wide policy and/or practice of not reimbursing employees

1 for expenses necessarily incurred and passing on their operating costs to Plaintiff and other non-
2 party Aggrieved Employees violates California Labor Code section 2802. Plaintiff and other
3 non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to
4 Labor Code sections 2699(a), (f), and (g).

5 **FAILURE TO PROVIDE NOTICE OF MATERIAL TERMS OF EMPLOYMENT**
6 **VIOLATION OF LABOR CODE SECTION 2810.5 (a)(1)(A)-(C)**

7 110. California's Wage Theft Prevention Act was enacted to ensure that employers
8 provide employees with basic information material to their employment relationship at the time
9 of hiring, and to ensure that employees are given written and timely notice of any changes to
10 basic information material to their employment. Codified at California Labor Code section
11 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must
12 provide written notice to employees containing basic and material payroll information,
13 including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour,
14 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the
15 regular payday designated by the employer, and any allowances claims as part of the minimum
16 wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

17 111. During the relevant time period, Defendants failed to provide Plaintiff and other
18 non-party Aggrieved Employees with written notice that lists all the requisite information set
19 forth in Labor Code section 2810.5(a)(1)(A)-(C).

20 112. Defendants' failure to provide Plaintiff and other non-party Aggrieved
21 Employees with written notice of basic information regarding their employment with
22 Defendants is in violation of California Labor Code section 2810.5. Plaintiff and other non-
23 party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor
24 Code sections 2699(a), (f), and (g).

25 **REQUEST FOR JURY TRIAL**

26 Plaintiff requests a trial by jury.

27 ///

28 ///

1 **PRAYER FOR RELIEF**

2 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
3 judgment against Defendants, jointly and severally, as follows:

4 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
5 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

6 **As to the First Cause of Action**

7 2. That the Court declare, adjudge and decree that Defendants violated the
8 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
9 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
10 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516,
11 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
12 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
13 statements and maintain accurate payroll records); 201.3 and 204 (by failing to timely pay all
14 earned wages during employment); 201, 201.3, and 202 (by failing to timely pay all earned
15 wages upon termination); 2802 (by failing to reimburse business expenses); and 2810.5 (by
16 failing to provide written notice of information material to employment).

17 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
18 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 201.3,
19 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and
20 2810.5;

21 4. For attorneys' fees and costs pursuant to California Labor Code section
22 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
23 Labor Code sections 201, 201.3, 202, 204, 226(a), 226.7, 3, 510, 512(a), 516, 1174(d), 1182.12,
24 1194, 1197, 1198, 2802, and 2810.5;

25 5. For pre-judgment and post-judgment interest as provided by law; and

26 ///

27 ///

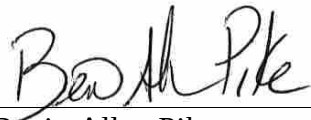
28 ///

1 6. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: September 30, 2022

Respectfully submitted,

5 Capstone Law APC

6
7 By: 
8 Bevin Allen Pike
9 Daniel S. Jonathan
Trisha K. Monesi

10 Attorneys for Plaintiff Maria Rodriguez De Paz
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “1”



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

JEZZETTE RON
310.712.8142 Direct
Jezzette.Ron@capstonelawyers.com

July 26, 2022

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Maria Rodriguez De Paz v. Hospitality Staffing Solutions LLC, et al.*

Dear PAGA Administrator:

This office represents Maria Rodriguez De Paz in connection with her claims under the California Labor Code. Ms. Rodriguez De Paz was an employee of HOSPITALITY STAFFING SOLUTIONS LLC and/or KELLERMEYER BERGENSONS SERVICES, LLC. For the purpose of this letter, Ms. Rodriguez De Paz collectively refers to these entities as "HSS."

The employers may be contacted directly at the addresses below:

HOSPITALITY STAFFING SOLUTIONS, LLC	KELLERMEYER BERGENSONS SERVICES, LLC
100 GLENRIDGE POINT PKWY STE 400	3605 OCEAN RANCH BOULEVARD, SUITE 200
ATLANTA, GA 30342	OCEANSIDE, CA 92056

Ms. Rodriguez De Paz intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Rodriguez De Paz seeks relief on behalf of herself, the State of California, and other persons who are or were employed by HSS as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

HSS employed Ms. Rodriguez De Paz as an hourly paid, non-exempt employee from approximately October 2021 to February 2022. Ms. Rodriguez De Paz worked as an Operator for HSS at its location in Moreno Valley, California. During her employment, Ms. Rodriguez De Paz typically worked eight (8) hours per day, and five (5) days per week. At the time her employment ended, Ms. Rodriguez De Paz was compensated approximately \$17.00 per hour. Her job duties included, without limitation, preparing crate machinery for daily use, inspecting machinery for safety, stacking crates, and cleaning work areas.

HSS committed one or more of the following Labor Code violations against Ms. Rodriguez De Paz, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

HSS’s Company-Wide and Uniform Payroll and HR Practices

HOSPITALITY STAFFING SOLUTIONS LLC and KELLERMEYER BERGENSONS SERVICES, LLC are Delaware limited liability companies. HSS is a staffing agency for hospitality, facility, and janitorial services, offering temporary and direct hiring to companies. Upon information and belief, HSS maintains a single, centralized Human Resources (HR) department at its company headquarters in Atlanta, Georgia, for all non-exempt, hourly paid employees working for HSS in California, including Ms. Rodriguez De Paz and other aggrieved employees. At all relevant times, HSS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Rodriguez De Paz and other aggrieved employees, regardless of their location or position.

Upon information and belief, HSS maintains a centralized Payroll department at its corporate headquarters in Atlanta, Georgia, which processes payroll for all non-exempt, hourly paid employees working for HSS in California, including Ms. Rodriguez De Paz and other aggrieved employees. Further, HSS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Rodriguez De Paz and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, HSS utilized the same methods and formulas when calculating wages due to Ms. Rodriguez De Paz and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

HSS willfully failed to pay all overtime wages owed to Ms. Rodriguez De Paz and other aggrieved employees. During the relevant time period, Ms. Rodriguez De Paz and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a

¹ These facts, theories, and claims are based on Ms. Rodriguez De Paz’s experience and counsel’s review of those records currently available relating to Ms. Rodriguez De Paz’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Rodriguez De Paz’s reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, HSS had a policy and/or practice of discouraging and impeding Ms. Rodriguez De Paz and other aggrieved employees from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with HSS's practice of understaffing and assignment of heavy workloads, deadlines, and productivity requirements, led Ms. Rodriguez De Paz and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. For example, HSS required Ms. Rodriguez De Paz and other aggrieved employees to prepare a minimum of two pallets, with 160 boxes stacked on each pallet before the end of a shift. Approximately twice per week, Ms. Rodriguez De Paz was required to clock out and continue working for up to 15 minutes to complete the preparation of pallets at the request of management. When this occurred, Ms. Rodriguez De Paz was unable to record this off-the-clock work because HSS's management prohibited her from recording these overtime hours. This off-the-clock work could have been recorded by HSS, but it refused to do so to avoid payment of overtime wages to Ms. Rodriguez De Paz and other aggrieved employees.

Further, during the relevant period, HSS implemented, on a company-wide basis, an employer-imposed requirement that Ms. Rodriguez De Paz and/or other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to their shifts, employees were required to spend time filling out a health screening form and undergoing a temperature check, before being permitted to clock in for their shifts. Even though HSS required these health screenings, HSS did not provide Ms. Rodriguez De Paz and/or other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Second, HSS's company-wide policies and/or practices of understaffing its job sites while assigning heavy workloads and deadlines resulted in a failure to provide Ms. Rodriguez De Paz and/or other aggrieved employees with adequate meal period coverage to permit them to take compliant meal periods. HSS also failed to schedule meal periods, which further caused Ms. Rodriguez De Paz and/or other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, other aggrieved employees missed meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. Further, on information and belief, because HSS frowned upon employees accruing meal period penalties, HSS pressured employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, even when they did not receive a compliant meal period. Consequently, other aggrieved employees performed work during meal periods for which they were not paid.

HSS knew or should have known that as a result of these company-wide practices and/or policies, Ms. Rodriguez De Paz and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Rodriguez De Paz and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, HSS did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, HSS paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However,

in violation of the California Labor Code, HSS failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, HSS failed to pay all overtime wages by paying a lower overtime rate than required.

Accordingly, Ms. Rodriguez De Paz and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 9-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11090(2)(H) (defining "Hours Worked").

As stated, due to HSS's company-wide practice of restricting overtime accrual by not recording hours worked that were outside of employees' scheduled shifts, HSS systematically failed to pay Ms. Rodriguez De Paz and other aggrieved employees for actual hours worked before and after their scheduled shifts, because these hours were not accurately recorded. Thus, Ms. Rodriguez De Paz and/or other employees were required to perform work off-the-clock before and after their scheduled shifts, including completing work-related tasks and submitting to mandated pre-shift COVID-19 temperature checks and health screenings, but were not compensated for this time. Additionally, as set forth above, due to HSS's uniform practices of understaffing; assigning heavy workloads, deadlines, and productivity requirements; failing to schedule meal periods; and the resulting lack of coverage, Ms. Rodriguez De Paz and/or other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Moreover, as stated, in order to limit meal penalties that HSS would otherwise owe, HSS pressured employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, but required them to continue working, time for which they were not paid.

Thus, HSS did not pay at least minimum wages for all hours worked by Ms. Rodriguez De Paz and other aggrieved employees. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, HSS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, HSS regularly failed to pay at least minimum wages to Ms. Rodriguez De Paz and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

During the relevant time period, as stated, HSS had, and continues to have, a company-wide policy and/or practice of understaffing its locations while simultaneously assigning heavy workloads, deadlines, and productivity requirements, which resulted in a lack of meal period coverage and prevented Ms. Rodriguez De Paz and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, HSS had a company-wide practice of failing to schedule meal periods, which further prevented Ms. Rodriguez De Paz and other aggrieved employees from taking all compliant meal periods. As a result of HSS's practices and/or policies, Ms. Rodriguez De Paz and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, approximately three (3) times per week, Ms. Rodriguez De Paz was unable to take her meal period until her sixth hour of work, in order to meet productivity requirements and finish her assigned duties.

Moreover, as stated, on information and belief, because HSS frowned upon employees accruing meal period penalties, HSS's management pressured Ms. Rodriguez De Paz and other aggrieved employees to clock out for meal periods and/or adjusted their time records to reflect compliant meal periods, even when they did not receive a compliant meal period, in order to strictly limit meal penalties that HSS would otherwise owe. For example, at HSS's management's direction, Ms. Rodriguez De Paz would log that her meal period was taken within the first five (5) hours of her shift, even though she was only able to take her meal periods until after her sixth hour of work.

Additionally, HSS did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Rodriguez De Paz and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, HSS had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. HSS took the position that non-exempt, hourly paid employees had waived their rights to first and/or second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were

entitled. Furthermore, HSS's meal period waiver form requires employees to provide written notice should they wish to revoke the waiver. HSS's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Rodriguez De Paz and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That HSS required Ms. Rodriguez De Paz and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because HSS's obligation to provide Ms. Rodriguez and aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

At all times herein mentioned, HSS knew or should have known that, as a result of these policies, Ms. Rodriguez De Paz and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. HSS further knew or should have known that it did not pay Ms. Rodriguez De Paz and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Furthermore, HSS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of HSS's practices and/or policies, Ms. Rodriguez De Paz and/or other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that HSS did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, HSS did not pay other aggrieved employees at the correct rate of pay for premiums because HSS systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, HSS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, HSS regularly failed to authorize and permit Ms. Rodriguez De Paz and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, HSS's company-wide practices, including understaffing and assigning heavy workloads, deadlines, and productivity requirements, prevented Ms. Rodriguez De Paz and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, HSS failed to schedule rest periods, which, coupled with HSS's failure to provide adequate rest period coverage, further led to Ms. Rodriguez De Paz and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Additionally, during the relevant time period, HSS maintained and implemented a company-wide on-premises rest period policy, which mandated that Ms. Rodriguez De Paz and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Rodriguez De Paz and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, HSS effectively maintained control over Ms. Rodriguez De Paz and other aggrieved employees during rest periods.

As a result of HSS's practices and policies, Ms. Rodriguez De Paz and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Rodriguez De Paz would have to forego many of her rest periods altogether due to the heavy workload and deadlines assigned to her.

HSS also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Rodriguez De Paz and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that HSS did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, HSS did not pay other aggrieved employees at the correct rate of pay for premiums because HSS failed to include

all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, HSS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Rodriguez De Paz and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. HSS has not provided Ms. Rodriguez De Paz and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, HSS has knowingly and intentionally provided Ms. Rodriguez De Paz and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, HSS issued uniform wage statements to Ms. Rodriguez De Paz and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, HSS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because HSS did not record the time Ms. Rodriguez De Paz and other aggrieved employees spent working off-the-clock, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), HSS did not list the correct amount of gross wages and net wages earned by Ms. Rodriguez De Paz and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, HSS failed to accurately list the total number of hours worked by Ms. Rodriguez De Paz and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Also, because HSS did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, HSS did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, HSS also failed to list the correct amount of net wages in violation of section 226(a)(5). HSS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), HSS willfully failed to maintain accurate payroll records for Ms. Rodriguez De Paz and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, HSS engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Rodriguez De Paz and other aggrieved employees in violation of section 1198. Furthermore, in light of HSS’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, HSS kept no records of meal start and end times for second meal periods.

Because HSS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Rodriguez De Paz and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Rodriguez De Paz and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 201.3 and 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

California Labor Code section 201.3 provides that if an employee of a temporary services employer is assigned to work for a client, that employee's wages are due and payable no less frequently than weekly, regardless of when the assignment ends, and wages for work performed during any calendar week shall be due and payable not later than the regular payday of the following calendar week.

During the relevant time period, HSS failed to pay Ms. Rodriguez De Paz and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums within any time period specified by California Labor Code sections 201.3 and/or 204.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 201.3, and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 201.3, and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, HSS has a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Ms. Rodriguez De Paz did not receive her final pay until one (1) week after being terminated by HSS. Thus, HSS failed to pay Ms. Rodriguez De Paz and other aggrieved employees their final wages immediately, in violation of California Labor Code sections 201 and/or 201.3.

Additionally, HSS willfully failed to pay Ms. Rodriguez De Paz and other aggrieved employees who are no longer employed by HSS all their earned wages, including, but not limited to, overtime wages,

minimum wages, and/or meal and rest period premiums either at the time of discharge, or within seventy-two (72) hours of their leaving HSS's employ.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 9-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 9-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

During the relevant time period, HSS, on a company-wide basis, required Ms. Rodriguez De Paz and other aggrieved employees to use their own personal mobile devices, including, but not limited to cellular phones, and/or mobile data to carry out their job duties, but failed to reimburse them for the cost of their work-related mobile device expenses. Specifically, Ms. Rodriguez De Paz used her personal cellular phone to photograph completed pallets and send those pictures to her manager. Although HSS required Ms. Rodriguez De Paz and other aggrieved employees to utilize their personal mobile devices and/or mobile data to carry out their work-related responsibilities, HSS failed to reimburse them for these costs.

Additionally, during the relevant time period, HSS expected Ms. Garcia and other aggrieved employees to "be in full uniform daily, [with the] uniform regularly cleaned and free of stains upon arrival at work each day while assigned with HSS." Furthermore, HSS's written uniform policy states, "Once issued, company uniforms become the employee's responsibility for maintenance and care" Ms. Rodriguez De Paz and other aggrieved employees were thus required to report to work wearing clean and presentable uniforms bearing the company logo, including uniform shirts and safety vests, on a daily basis. However, HSS did not provide its employees with sufficient uniforms to wear for their shifts throughout the week. For example, HSS only provided Ms. Rodriguez De Paz with one (1) shirt and one (1) safety vest at the beginning of her employment. Because HSS failed to provide Ms. Rodriguez De Paz with an adequate number of uniform items in relation to her scheduled shifts and for the tasks she was required to perform, Ms. Rodriguez De Paz was forced to wash her uniform items more frequently than she would otherwise do laundry and incur expenses in doing so. For example, due to the nature of work involved in operating machinery, Ms. Rodriguez De Paz's uniform items would become stained with dirt and grime, such that she was unable to mix these clothes in with her other laundry. As a result, she had to wash their uniform items separately from any other clothing items and thus incurred additional utility and laundry expenses for the upkeep of her uniforms. Thus, HSS failed to maintain the uniforms it required Ms. Rodriguez De Paz and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

HSS could have provided Ms. Rodriguez De Paz and other aggrieved employees with the actual equipment for use on the job, such company mobile devices and adequate number of uniforms or access to laundering services. Or, HSS could have reimbursed employees for the costs of their mobile device usage and laundering expenses or provided a uniform maintenance allowance. Instead, HSS passed these operating costs off onto Ms. Rodriguez De Paz and other aggrieved employees. At all relevant times, Ms. Rodriguez De Paz did not earn at least two (2) times the minimum wage.

Thus, HSS had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

HSS failed to provide Ms. Rodriguez De Paz and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). HSS's failure to provide Ms. Rodriguez De Paz and other aggrieved employees with written notice of basic information regarding their employment with HSS is in violation of Labor Code section 2810.5.

Ms. Rodriguez De Paz and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties

provided for in this section are in addition to any other civil or criminal penalty provided by law.” HSS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Rodriguez De Paz’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Rodriguez De Paz seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Rodriguez De Paz, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against HSS for violations of California Labor Code sections 201, 201.3, 202, 203, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Rodriguez De Paz seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Rodriguez De Paz’s reasonable attempt to settle her dispute with HSS prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform HSS while affording HSS a reasonable opportunity to satisfy Ms. Rodriguez De Paz’s demands.

Demand is hereby made that HSS shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. HSS shall pay Ms. Rodriguez De Paz and all other aggrieved employees employed by HSS at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. HSS shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. HSS shall conduct a survey or interview all current and former aggrieved employees in California who worked for HSS in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted, and the number of employees who were required to pay for mobile device expenses, uniform maintenance, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. HSS shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. HSS also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. HSS shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for HSS's benefit, including, but not limited to, mobile device expenses and uniform maintenance, as required by Labor Code section 2802.
6. HSS shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
7. HSS shall provide Ms. Rodriguez De Paz and all aggrieved employees employed by HSS at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. HSS shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.

HSS shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 9-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Jezzette Ron
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Jezzette Ron

Copy: HOSPITALITY STAFFING SOLUTIONS, LLC (via U.S. Certified Mail); KELLERMEYER BERGENSONS SERVICES, LLC (via U.S. Certified Mail)

Capstone
LAW LLC

1875 Century Park East, Suite 1000
Los Angeles, California 90067



7021 1970 0001 8870 3280

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$ _____
☐ Return Receipt (electronic) \$ _____
☐ Certified Mail Restricted Delivery \$ _____
☐ Adult Signature Required \$ _____
☐ Adult Signature Restricted Delivery \$ _____

Postage

Total Postage and Fees

Postmark
Here

HOSPITALITY STAFFING SOLUTIONS, LLC
100 GLENRIDGE POINT PKWY STE 400
ATLANTA, GA 30342

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

HOSPITALITY STAFFING SOLUTIONS, LLC
100 GLENRIDGE POINT PKWY STE 400
ATLANTA, GA 30342

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

HOSPITALITY STAFFING SOLUTIONS, LLC
100 GLENRIDGE POINT PKWY STE 400
ATLANTA, GA 30342



9590 9402 7420 2055 3570 75

2. Article Number (Transfer from service label)

7021 1970 0001 8870 3280

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Certified Mail Signature Restricted Delivery
- ☐ Certified Mail Signature Restricted Delivery
- ☐ Registered Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

Capstone
LAW LLC
1875 Century Park East, Suite 1000
Los Angeles, California 90067



7021 1970 0000 2660 0719

CERTIFIED MAIL[®]

U.S. Postal Service[™]
CERTIFIED MAIL[®] RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
Here

Postage

Total Postage and Fees

KELLERMAYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD, SUITE 200
OCEANSIDE, CA 92056

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

See Reverse for Instructions

KELLERMAYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD,
SUITE 200
OCEANSIDE, CA 92056

SENDER: COMPLETE THIS SECTION

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

KELLERMAYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD,
SUITE 200
OCEANSIDE, CA 92056



9590 9402 7420 2055 3570 82

2. Article Number (Transfer from service label)

7021 1970 0000 2660 0719

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature ☐ Registered Mail[™]
☐ Adult Signature Restricted Delivery ☐ Registered Mail Restricted Delivery
☐ Certified Mail[®] ☐ Certified Mail Restricted Delivery
☐ Certified Mail Signature Confirmation[™]
☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery
☐ Insured Mail[®] ☐ Insured Mail Restricted Delivery
☐ Registered Mail[™] ☐ Registered Mail Restricted Delivery
☐ Signature Confirmation[™] ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

HOSPITALITY STAFFING SOLUTIONS, LLC
100 GLENRIDGE POINT PKWY STE 400
ATLANTA, GA 30342



9590 9402 7420 2055 3570 75

2. Article Number (Transfer from service label)

0001 8870 3280

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

☒ Agent
☐ Addressee

C. Date of Delivery

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

KELLERMEYER BERGENSONS SERVICES, LLC
3605 OCEAN RANCH BOULEVARD,
SUITE 200
OCEANSIDE, CA 92056



9590 9402 7420 2055 3570 82

2. Article Number (Transfer from service label)

7021 1970 0000 2660 0719

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☒ Agent

☐ Addressee

B. Received by (Printed Name)

D. DIAZ

C. Date of Delivery

7/28/22

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery