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March 14, 2025

VIA ONLINE SUBMISSION

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

Subject: *Alejandro Emanuel Marquez Martinez v. Peak Restaurant Partners LLC, et al.*

Dear PAGA Administrator:

This office represents Alejandro Emanuel Marquez Martinez in connection with his claims under the California Labor Code. Mr. Marquez Martinez was an employee of PEAK RESTAURANT PARTNERS LLC and/or PEAK CALIFORNIA RESTAURANT GROUP, LLC. For the purpose of this letter, Mr. Marquez Martinez collectively refers to these entities as "PEAK."

The employers may be contacted directly at the addresses below:

PEAK RESTAURANT PARTNERS LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD PLAZA, SUITE #400  
ATLANTA, GA 30305

PEAK RESTAURANT PARTNERS LLC  
1778 N. PLANO ROAD, SUITE 100  
RICHARDSON, TX 75081

PEAK RESTAURANT PARTNERS LLC  
1751 INTERNATIONAL PARKWAY  
SUITE 101  
RICHARDSON, TX 75081

PEAK CALIFORNIA RESTAURANT  
GROUP, LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD PLAZA, SUITE #400  
ATLANTA, GA 30305

PEAK CALIFORNIA RESTAURANT GROUP,  
LLC  
1778 N. PLANO ROAD, SUITE 100  
RICHARDSON, TX 75081

Mr. Marquez Martinez intends to seek civil penalties, attorneys' 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"). Mr. Marquez Martinez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by PEAK 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.

PEAK employed Mr. Marquez Martinez as an hourly paid, non-exempt employee from approximately September 2023 to September 2024. Mr. Marquez Martinez worked for PEAK as a Cook at its restaurant located in South San Francisco, California. During his employment, Mr. Marquez Martinez typically worked eight (8) hours or more per day and five (5) days per week. By the end of his employment, Mr. Marquez Martinez was compensated approximately \$21.50 per hour. His job duties included, without limitation, preparing food items and maintaining cleanliness of the kitchen area.

PEAK committed each of the following Labor Code violations against Mr. Marquez Martinez, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c)(1):<sup>1</sup>

### **PEAK’s Company-Wide and Uniform Payroll and HR Practices**

PEAK RESTAURANT PARTNERS LLC is a limited liability company of unknown origin and PEAK CALIFORNIA RESTAURANT GROUP, LLC is a Georgia limited liability company. Together, they own and operate a chain of IHOP franchise restaurants, with at least seven (7) restaurants in California. Upon information and belief, PEAK maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Atlanta, Georgia, or Richardson, Texas, for all non-exempt, hourly paid employees working for PEAK in California, including Mr. Marquez Martinez and other aggrieved employees. At all relevant times, PEAK issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Marquez Martinez and other aggrieved employees, regardless of their location or position.

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

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<sup>1</sup> These facts, theories, and claims are based on Mr. Marquez Martinez’s experience and counsel’s review of those records currently available relating to Mr. Marquez Martinez’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, Mr. Marquez Martinez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

## **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.

PEAK willfully failed to pay all overtime wages owed to Mr. Marquez Martinez and other aggrieved employees. During the relevant time period, Mr. Marquez Martinez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a 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 time period, PEAK had, and continues to have, a company-wide policy and/or practice of discouraging and impeding Mr. Marquez Martinez 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 PEAK’s use of labor budgets and resultant understaffing (*see infra*), led Mr. Marquez Martinez and other aggrieved employees to work off-the-clock after their scheduled shift times. For example, approximately twice per week, Mr. Marquez Martinez would clock out at the end of his shift, but PEAK’s managers would then require that he review the cleanliness of the restaurant’s kitchen, and if needed, spend time cleaning his workstation to his managers’ liking, before he was allowed to leave for the day. Because PEAK discouraged and limited overtime accrual, Mr. Marquez Martinez and other aggrieved employees were required to complete assigned tasks outside of their scheduled shifts without being compensated for the time they worked.

Second, PEAK had, and continues to have, a company-wide policy and/or practice of requiring Mr. Marquez Martinez and other aggrieved employees to obtain certain certifications, such as a California Food Handler’s Certificate, and to keep their certificates and/or trainings up-to-date, but PEAK failed to compensate Mr. Marquez Martinez and other aggrieved employees for this time spent doing so. For example, Mr. Marquez Martinez was required to take an online training course to obtain his Food Handler’s Card while he was at home, which took approximately one (1) hour to complete, but was not compensated for this time worked. Thus, PEAK failed to track the time Mr. Marquez Martinez and other aggrieved employees spent completing the mandatory trainings, and Mr. Marquez Martinez and other aggrieved employees received no compensation for this time.

Third, upon information and belief, PEAK had, and continues to have, a company-wide policy and/or practice of strictly staffing its locations based on the labor hours allocated by each location’s labor or payroll budget set by the corporate office. PEAK’s uniform use of labor budgeting resulted in chronic understaffing, such that there were too few employees on duty to handle the workload and attend to customers. Because PEAK did not employ or staff a sufficient number of employees to meet customer demand, there was no one available to relieve employees needing meal period coverage, and Mr. Marquez Martinez and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period.

Moreover, PEAK had a practice of failing to schedule meal periods, which further caused Mr. Marquez Martinez and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Marquez Martinez's meal periods were sometimes interrupted because his manager required that he return to work to complete food orders when a sudden rush of customers arrived, as there were not enough employees staffed to provide coverage for Mr. Marquez Martinez during his meal periods and also handle the workload.

PEAK knew or should have known that as a result of these company-wide practices and/or policies, Mr. Marquez Martinez and other aggrieved employees were performing their assigned duties off-the-clock outside of their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Marquez Martinez and other aggrieved employees worked shifts of eight (8) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Mr. Marquez Martinez and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

PEAK's failure to pay Mr. Marquez Martinez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with the applicable IWC Wage Order and Labor Code sections 510 and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

**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. 5-2001 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, § 11050(2)(M) (defining "Hours Worked").

First, as set forth above, as a result of PEAK's policy of limiting the amount of overtime employees could accrue, pursuant to its labor budget practices, PEAK required Mr. Marquez Martinez and other aggrieved employees to perform work off-the-clock outside of their scheduled shifts, such as reviewing the cleanliness of the kitchen and cleaning their workstations. Moreover, on days off, PEAK required Mr. Marquez Martinez and other aggrieved employees to complete work-related tasks, such as completing training and/or obtaining their food handler's certificates. As a result, PEAK failed to track this time that Mr. Marquez Martinez and other aggrieved employees spent working off-the-clock, and thus, Mr. Marquez Martinez and other aggrieved employees received no compensation for this time.

Second, as set forth above, due to PEAK's company-wide policies and/or practices of utilizing labor budgets, understaffing its locations, and failing to schedule meal periods, Mr. Marquez Martinez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods.

PEAK did not pay at least minimum wages for all hours worked by Mr. Marquez Martinez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, PEAK 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, PEAK regularly failed to pay at least minimum wages to Mr. Marquez Martinez 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. Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with the applicable IWC Wage Order and Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f), and (k).

### **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 period, as stated, PEAK had, and continues to have, a company-wide policy and/or practice of understaffing due to labor budgeting and/or limited payroll allocation, which, combined with the assignment of heavy workloads, has resulted in a lack of meal period coverage and prevented Mr. Marquez Martinez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Moreover, as stated, PEAK failed to schedule meal periods, which further caused Mr. Marquez Martinez and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Mr. Marquez Martinez and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Mr. Marquez Martinez sometimes missed his meal periods or took his meal periods late, after the fifth hour of work, due to the heavy workload and lack of coverage. Additionally, as stated, Mr. Marquez Martinez's meal periods were sometimes interrupted because his manager required him to return to work to complete food orders. Thus, PEAK failed to provide Mr. Marquez Martinez and other aggrieved employees with compliant, 30-minute meal periods.

Further, PEAK did not provide Mr. Marquez Martinez and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of 10 hours in one day. For example,

when Mr. Marquez Martinez worked in excess of 10 hours in one day, he was not provided with a second meal period. Mr. Marquez Martinez 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.

At all times herein mentioned, PEAK knew or should have known that, as a result of these policies, Mr. Marquez Martinez and other aggrieved employees were prevented from being relieved of all duties and required to perform some of their assigned duties during meal periods. PEAK further knew or should have known that PEAK did not pay Mr. Marquez Martinez and other aggrieved employees meal period premiums when meal periods were missed, shortened, interrupted, and/or late.

Furthermore, PEAK engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Marquez Martinez and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods.

Accordingly, PEAK failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 512(a), 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

#### **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, 273 (2016).

During the relevant time period, PEAK regularly failed to authorize and permit Mr. Marquez Martinez 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, PEAK's company-wide use of labor budgeting and/or limited payroll allocation, understaffing, and assigning heavy workloads resulted in a lack of rest period coverage and prevented Mr. Marquez Martinez and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. PEAK also failed to schedule

rest periods, which further led to Mr. Marquez Martinez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, on information and belief, PEAK maintained a company-wide on-premises rest period policy, which effectively required that Mr. Marquez Martinez and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Marquez Martinez and other aggrieved employees were restricted from leaving PEAK's 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, PEAK effectively maintained control over Mr. Marquez Martinez and other aggrieved employees during rest periods.

As a result of PEAK's practices and policies, Mr. Marquez Martinez and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted rest periods to which they were entitled. For example, Mr. Marquez Martinez had to forgo all his rest periods because of the lack of coverage and PEAK's failure to schedule rest periods for employees.

PEAK also has engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Marquez Martinez and other aggrieved employees have not received premium pay for all missed rest periods.

Accordingly, PEAK failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with the applicable IWC Wage Order and Labor Code sections 226.7, 516, and 1198, pursuant to Labor Code sections 558 and/or 2699(a), (f), and (k).

#### **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. PEAK has not provided Mr. Marquez Martinez 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).

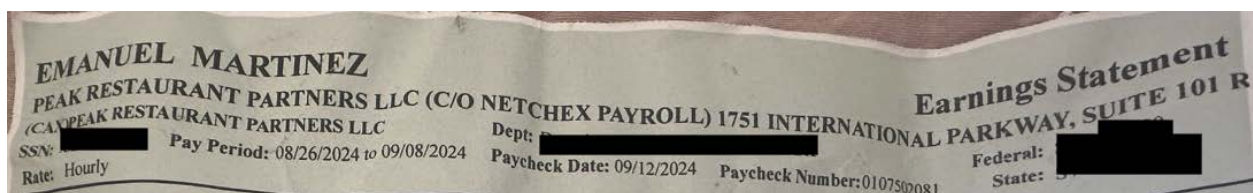
During the relevant time period, PEAK has knowingly and intentionally provided Mr. Marquez Martinez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, PEAK issued uniform wage statements to Mr. Marquez Martinez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the name and address of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of

hours worked at each hourly rate. Specifically, PEAK violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

Because PEAK did not record the time Mr. Marquez Martinez and other aggrieved employees spent working off-the-clock, PEAK did not list the correct amount of gross wages and net wages earned by Mr. Marquez Martinez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, PEAK failed to accurately list the total number of hours worked by Mr. Marquez Martinez 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).

Additionally, and separate from these violations, PEAK issued uniform wage statements to Mr. Marquez Martinez and other aggrieved employees that failed to correctly list the name and address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc.

During the relevant time period, PEAK systematically, and on a company-wide basis, issued wage statements to Mr. Marquez Martinez and other aggrieved employees that fail to list the employing entity's correct name and/or address. Mr. Marquez Martinez's and other aggrieved employees' wage statements incorrectly list the employing entity's name as "PEAK RESTAURANT PARTNERS LLC" and the employer's address as "1751 INTERNATIONAL PARKWAY, SUITE 101 R." However, according to the California Secretary of State's website, there is no such entity by this name located at this address. *See example paystub below.* On information and belief, Mr. Marquez Martinez's and other aggrieved employees' actual, correct employing entity's name is "PEAK CALIFORNIA RESTAURANT GROUP, LLC," with the address of "3060 PEACHTREE ROAD NW, ONE BUCKHEAD PLAZA, SUITE #400, ATLANTA, GA 30305" or "1778 N. PLANO ROAD, SUITE 100, RICHARDSON, TX 75081."



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; and/or failing to state all hours worked as a result of not recording or stating hours 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), PEAK willfully failed to maintain accurate payroll records for Mr. Marquez Martinez 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, PEAK engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Marquez Martinez and other aggrieved employees, in violation of section 1198. Also, in light of PEAK’s failure to provide Mr. Marquez Martinez and other aggrieved employees with second 30-minute meal periods to which they were entitled, PEAK kept no records of meal start and end times for second meal periods.

Because PEAK failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Marquez Martinez 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, Mr. Marquez Martinez 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.

Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with the applicable IWC Wage Order and Labor Code sections 226(a), 1174(d), and 1198, pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

### **Violation of California Labor Code § 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.

During the relevant time period, PEAK failed to pay Mr. Marquez Martinez and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with Labor Code section 204, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

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

California Labor Code sections 201 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.

PEAK had a company-wide practice and/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, Mr. Marquez Martinez tendered his resignation, effective immediately, to PEAK on or about September 2, 2024; however, PEAK did not provide Mr. Marquez Martinez with his final wages until September 12, 2024. Thus, PEAK failed to pay Mr. Marquez Martinez his final wages within seventy-two (72) hours after voluntarily leaving his employment, in violation of California Labor code section 202.

In addition, PEAK willfully failed to pay Mr. Marquez Martinez and other aggrieved employees who are no longer employed by PEAK the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving PEAK's employ.

Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with Labor Code sections 201 and 202, pursuant to Labor Code sections 256 and/or 2699(a), (f), and (k).

**Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay**

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

California Code of Regulations, Title 8, section 11050(5)(A) provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less

than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage." The "primary purpose of the reporting time regulation" is "to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer." *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, PEAK violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because PEAK failed to pay Mr. Marquez Martinez and other aggrieved employees reporting time pay when they reported to work for their usual or scheduled shift but were put to work for less than half of their usual or scheduled day's work.

PEAK had a company-wide practice of sending Mr. Marquez Martinez and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Marquez Martinez and other aggrieved employees for half of their scheduled shift. For example, when scheduled to work a shift of eight (8) hours, PEAK's managers sent Mr. Marquez Martinez home within three (3) hours after the start of his shift, because business was slow. Although Mr. Marquez Martinez and other aggrieved employees reported to work based on the schedule that was provided to them, PEAK would send them home before they worked at least half of their usual or scheduled shifts. When this occurred, PEAK did not pay Mr. Marquez Martinez and other aggrieved employees for at least half of their scheduled day's work or the minimum reporting time pay.

Accordingly, Mr. Marquez Martinez and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A). Mr. Marquez Martinez and other aggrieved employees are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon, and seek injunctive relief to bring PEAK into compliance with the applicable IWC Wage Order and Labor Code section 1198, pursuant to Labor Code sections 2699(a), (f), and (k).

### **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." PEAK, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Marquez Martinez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Marquez Martinez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699(k), 2699.3(a), 2699.3(c),

2699.5, and 558, Mr. Marquez Martinez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against PEAK for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

Therefore, on behalf of all aggrieved employees, Mr. Marquez Martinez 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 Mr. Marquez Martinez's reasonable attempt to settle his dispute with PEAK prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform PEAK of Mr. Marquez Martinez's aforementioned grievances and the proposed remedies as detailed below, while affording PEAK a reasonable opportunity to satisfy Mr. Marquez Martinez's demands.

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

1. PEAK shall pay Mr. Marquez Martinez and all other aggrieved employees employed by PEAK at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. PEAK 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, provided lawful meal and rest periods, and paid reporting time pay.
3. PEAK shall conduct a survey or interview all current and former aggrieved employees in California who worked for PEAK 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 and the number of rest periods which were not authorized and permitted, with the investigation to be completed within 60 days.
4. PEAK shall pay Mr. Marquez Martinez and 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. PEAK also shall pay Mr. Marquez Martinez and 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. PEAK shall pay accrued legal interest to Mr. Marquez Martinez and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
6. PEAK shall provide Mr. Marquez Martinez and all aggrieved employees employed by PEAK 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).

7. PEAK 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.
8. PEAK shall provide aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
9. PEAK 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 IWC Wage Order No. 5-2001, 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:

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

Best Regards,

A handwritten signature in black ink, appearing to read 'Alexander Lima', with a stylized flourish extending to the right.

Alexander Lima

Copy: PEAK RESTAURANT PARTNERS LLC (via U.S. Certified Mail); PEAK CALIFORNIA RESTAURANT GROUP, LLC (via U.S. Certified Mail)

Capstone Law, APC  
1875 Century Park, East, 1000  
Los Angeles, CA. 90067



7022 2410 0000 2265 1875

PEAK RESTAURANT  
PARTNERS LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD  
PLAZA, SUITE #400  
ATLANTA, GA 30305

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

PEAK RESTAURANT  
PARTNERS LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD  
PLAZA, SUITE #400  
ATLANTA, GA 30305



9590 9402 8803 4005 5727 70

2. Article Number (transfer from service label)

7022 2410 0000 2265 1875

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A. Signature

☒ Agent  
☐ Addressee

Received by (Printed Name)

C. Date of Delivery

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

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Certified Mail Fee

Extra Services & Fees (check box, add fee as appropriate)  
☐ Return Receipt (hardcopy) \$  
☐ Return Receipt (electronic) \$  
☐ Cert \$  
☐ Adv \$  
☐ Adv \$

Postage

PEAK RESTAURANT  
PARTNERS LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD  
PLAZA, SUITE #400  
ATLANTA, GA 30305

PS Form 3800, April 2015 PSN 7530-02-000-9037 See Reverse for Instructions

Capstone Law, APC  
1875 Century Park, East, 1000  
Los Angeles, CA. 90067



7022 2410 0000 2265 1882

PEAK RESTAURANT  
PARTNERS LLC  
1778 N. PLANO ROAD, SUITE 100  
RICHARDSON, TX 75081

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☒ Return Receipt (hardcopy) \$  
☐ Return Receipt (electronic) \$  
☐ CI  
☐ AI  
☐ PO  
Postage \$  
Total \$  
Sent \$  
Street  
City, ST

PEAK RESTAURANT  
PARTNERS LLC  
1778 N. PLANO ROAD, SUITE 100  
RICHARDSON, TX 75081

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

7022 2410 0000 2265 1882

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PEAK RESTAURANT  
PARTNERS LLC  
1778 N. PLANO ROAD, SUITE 100  
RICHARDSON, TX 75081



9590 9402 8803 4005 5732 27

2. Article Number (Transfer from service label)

7022 2410 0000 2265 1882

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature  
☒ Agent  
☐ Addressee  
Received by (Printed Name) C. Date of Delivery

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

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

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

Domestic Return Receipt

# CEMENTED MAIL



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Certified Mail Fee

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

☒ Return Receipt (hardcopy)  
☐ Return Receipt (electronic)

*Continued*

**PEAK RESTAURANT  
PARTNERS LLC  
1751 INTERNATIONAL  
PARKWAY SUITE 101  
RICHARDSON, TX 75081**

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

See Reverse for Instructions

**PEAK RESTAURANT  
PARTNERS LLC  
1751 INTERNATIONAL  
PARKWAY SUITE 101  
RICHARDSON, TX 75081**

**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.

**PEAK RESTAURANT  
PARTNERS LLC  
1751 INTERNATIONAL  
PARKWAY SUITE 101  
RICHARDSON, TX 75081**



9590 9402 8803 4005 5732 10

*Transfer from service label*

2022 2410 0000 2265 1899

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

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

☐ Agent☐ Addressed

Received by (Printed Name)

C. Date of Delivery

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

☐ Yes ☐ No

Service Type

Service type \_\_\_\_\_  
Adult Signature \_\_\_\_\_

Adult Signature Restricted Delivery

Certified Mail®

**Certified Mail Restricted Delivery**  
Collect on Delivery

**Collect on Delivery**

☐ Priority Mail Express®☐ Registered Mall™☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation

**Restricted Delivery**

Domestic Return Receipt

Capstone Law, APC  
1875 Century Park, East, 1000  
Los Angeles, CA. 90067



7022 2410 0000 2265 1905

PEAK CALIFORNIA  
RESTAURANT GROUP, LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD  
PLAZA, SUITE #400  
ATLANTA, GA 30305

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

PEAK CALIFORNIA  
RESTAURANT GROUP, LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD  
PLAZA, SUITE #400  
ATLANTA, GA 30305



9590 9402 6803 4005 5733 33

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7022 2410 0000 2265 1905

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

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent
- ☒ Addressee

1. Received by (Printed Name) C. Date of Delivery

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

- 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
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
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RESTAURANT GROUP, LLC  
3060 PEACHTREE ROAD NW  
ONE BUCKHEAD  
PLAZA, SUITE #400  
ATLANTA, GA 30305

PS Form 3800, April 2015 PSN 7530-02-000-9057

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Capstone Law, APC  
1875 Century Park, East, 1000  
Los Angeles, CA. 90067



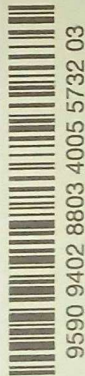
7022 2410 0000 2265 1912

PEAK CALIFORNIA  
RESTAURANT GROUP, LLC  
1778 N. PLANO ROAD, SUITE 100  
RICHARDSON, TX 75081

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.

PEAK CALIFORNIA  
RESTAURANT GROUP, LLC  
1778 N. PLANO ROAD, SUITE 100  
RICHARDSON, TX 75081



2. Article Number (Transfer from service label)

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7022 2410 0000 2265 1912

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

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

Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☒ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
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☐ Registered Mail Restricted Delivery  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

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