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and all others similarly situated and aggrieved

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Clerk of Court

Superior Court of CA,

County of Santa Clara

25CV466563

Reviewed By: A. Hernandez

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

ANGEL JIMENEZ, an individual, on behalf
of himself and all others similarly situated and
aggrieved,

Plaintiff,

vs.

NTG, LLC dba NICK THE GREEK, a
California Limited Liability Company; and
DOES 1 through 25, inclusive,

Defendants.

Case No.: 25CV466563

**CLASS ACTION AND PAGA
REPRESENTATIVE ACTION COMPLAINT**

- (1) FAILURE TO PROVIDE MEAL PERIODS;**
- (2) FAILURE TO PROVIDE REST BREAKS;**
- (3) FAILURE TO PAY MINIMUM WAGES;**
- (4) FAILURE TO PAY OVERTIME WAGES;**
- (5) FAILURE TO PAY ALL WAGES UPON
SEPARATION;**
- (6) FAILURE TO FURNISH TIMELY AND
ACCURATE WAGE STATEMENTS;**
- (7) VIOLATION OF CALIFORNIA'S UNFAIR
COMPETITION LAW ("UCL"), CAL. BUS.
& PROF. CODE § 17200, *ET SEQ.*; AND**
- (8) CIVIL PENALTIES FOR VIOLATIONS
OF LABOR CODE, PURSUANT TO
CALIFORNIA'S PRIVATE ATTORNEYS
GENERAL ACT ("PAGA"), §§ 2698, *ET
SEQ.***

DEMAND FOR JURY TRIAL

options to dine-in and place pick-up/to-go orders and catering orders, whether placed online or in person. For purposes of this action, the locations at issue are solely the corporate-owned locations and those operated by any of the co-owner-founder cousins: Nicholas Tsigaris, Nicholas Tsigaris, and Nicholas Tsigaris.

4. Defendants' policy and practice is to deny earned wages, including premium and overtime pay to their nonexempt employees in California. Defendants do not provide Plaintiff and Class Members with legally compliant meal periods nor premium pay in lieu thereof. Plaintiff and Class Members were regularly unable to timely commence their 30-minute meal periods; in fact, they did not take their meal periods at all. Despite that, Defendants did not compensate Plaintiff and Class Members with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. Furthermore, Plaintiff's final—or near final—paycheck issued reveals that Defendants failed to pay him a single meal period premium that entire year.

5. Likewise, Defendants do not provide Plaintiff and Class Members with legally compliant rest breaks nor premium pay in lieu thereof. Plaintiff and Class Members were regularly unable to timely commence their 10-minute rest breaks; in fact, they did not take their rest breaks at all. Despite that, Defendants did not compensate Plaintiff and Class Members with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. Furthermore, Plaintiff's final—or near final—paycheck issued reveals that Defendants failed to pay him a single rest break premium that entire year.

6. Additionally, Defendants require their employees to be present and to perform work uncompensated in excess of eight hours per day and/or 40 hours per work week.

7. Defendants mandated that Plaintiff and Class Members perform various forms of compensable work off-the-clock including, but not limited to, (1) work performed at the end of shifts to perform closing duties like discarding trash, washing dishes, and cleaning, because being clocked in past those pre-scheduled shift hours was discouraged and (2) assuming Defendants auto-deducted 30 minutes for meal periods, those 30 minutes were all compensable since Claimants remained at work during their meal periods. These off-the-clock periods exist for the sole benefit of Defendants and occurred frequently and regularly at Defendants' locations throughout California. This illegal practice has been in effect by

1 Defendants since at least the start of the Class Period.

2 8. Moreover, Defendants fail to timely compensate employees for all wages earned and fail
3 to properly and accurately calculate minimum wages and overtime wages and report wages earned, hours
4 worked, and wage rates. For these reasons, Plaintiff brings this action on behalf of himself and other
5 hourly, nonexempt employees of Defendants to recover unpaid wages, overtime compensation, penalties,
6 interest, injunctive relief, damages, and reasonable attorneys' fees and costs.

7 9. Defendants' deliberate failure to pay their hourly, nonexempt employees their earned
8 wages and overtime compensation violates the California Labor Code and California's Unfair
9 Competition Law, codified under California's Business & Professions Code.

10 10. Plaintiff brings a class action under the California Code of Civil Procedure section 382
11 against all Defendants on behalf of all hourly, nonexempt employees of Defendants in California for
12 failing to provide compliant meal periods and rest breaks or premium pay in lieu thereof, for unpaid
13 minimum wages including for work performed off the clock; unpaid overtime wages; failing to pay all
14 wages owed upon separation; failing to provide timely, accurate wage statements; and other related
15 penalties and damages under the California Labor Code and California Business & Professions Code.

16 **II. JURISDICTION AND VENUE**

17 11. This Court has jurisdiction over this matter because Defendants are licensed to do
18 business in California, regularly conduct business in California, and committed and continue to commit
19 the unlawful acts alleged herein in California.

20 12. This Court has jurisdiction over this action pursuant to the California Constitution,
21 Article VI, section 10. The statute under which this action is brought does not specify any other basis
22 for jurisdiction.

23 13. This Court has jurisdiction over all Defendants because, on information and belief,
24 Defendants are citizens of California, have sufficient minimum contacts in California, and intentionally
25 avail themselves of the California market so as to render the exercise of jurisdiction over them by the
26 California courts consistent with traditional notions of fair play and substantial justice. There is no basis
27 for federal diversity jurisdiction in this action given that the State of California, as the real party in
28 interest in this action, is not a "citizen" for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin*

1 *Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot
2 be aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction in this
3 action, and that diversity jurisdiction cannot be established when Plaintiff's share of the civil penalties
4 attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

5 14. Venue lies properly with this Court, as it is the place where at least one defendant resides,
6 is incorporated or has its principal place of business, or a substantial amount of the events which gave
7 rise to this suit occurred and/or a cause of action arose. Thus, venue is proper in this Court, because
8 Defendants employ persons in this county and employed at least one plaintiff in this county, and thus a
9 substantial portion of the transactions and occurrences related to this action occurred in this county.

10 15. California Labor Code sections 2698 *et seq.*, the "Labor Code Private Attorneys General
11 Act of 2004" ("PAGA"), authorize aggrieved employees to sue as private attorneys general their current
12 or former employers for various civil penalties for violating the California Labor Code.

13 **III. PARTIES**

14 16. Plaintiff ANGEL JIMENEZ ("Plaintiff" or "JIMENEZ") is or was a resident of San Jose,
15 California. Defendants employed Plaintiff as an hourly-paid, non-exempt employee for about 1.3 years
16 from approximately May 15, 2023 to September 10, 2024 in the position of Cook. During his
17 employment, Plaintiff worked at Defendants' location in Santa Clara County, California located at 2855
18 Stevens Creek Boulevard, Suite 2465, San Jose, California 95128. Plaintiff typically worked six days
19 per week for 6.5 to 8 or more hours per day and at least about forty (40) hours per week. At the time of
20 his separation, Plaintiff was earning an hourly wage of \$20.00 per hour.

21 17. Defendant NTG, LLC doing business as NICK THE GREEK ("NICK THE GREEK")
22 is, on information and belief, a California Limited Liability Company with its principal place of business
23 located at 5765 Winfield Boulevard, San Jose, California 95123 and at all times hereinafter mentioned,
24 is operating in California in the restaurant industry, offering a fast-casual dining atmosphere serving
25 Greek Mediterranean fare throughout California. More specifically, Defendant NICK THE GREEK
26 operates numerous—approximately 73—NICK THE GREEK franchise restaurant locations in
27 California, each of which offers patrons the options to dine-in and place pick-up/to-go orders and
28 catering orders, whether placed online or in person. The locations at issue in this action are solely the

1 corporate-owned locations and those operated by any of the co-owner-founder cousins: Nicholas
2 Tsigaris, Nicholas Tsigaris, and Nicholas Tsigaris.

3 18. Defendants created the policies and procedures described herein and, at all times during
4 the Class Period, participated in, endorsed, implemented, and performed the conduct alleged herein.

5 19. The practices and policies complained of by way of this Complaint are enforced
6 throughout the State of California, including in Santa Clara County, California.

7 20. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
8 participation in the conduct alleged herein, of the Defendants sued as Does 1-25, inclusive, but is
9 informed and believes that said Defendants are legally responsible for the conduct alleged herein and
10 therefore sues these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege
11 both the true names and capacities of the Doe Defendants when ascertained. Plaintiff is informed and
12 believes, and thereon alleges, that at all times mentioned herein, all Defendants, including Doe
13 Defendants, and each of them, were agents, servants, employees, successors in interest, and/or joint
14 venturers of their co-Defendants and were, as such, acting within the course, scope, and authority of said
15 agency, employment, and/or venture, and with the consent of their co-Defendants, and/or said acts were
16 ratified by their co-Defendants, and that each and every Defendant, as aforesaid, when acting as a
17 principal, was negligent in the selection and hiring, training, and supervision of each and every other
18 Defendant as an agent, servant, employee, successor in interest, and/or joint venturer. Plaintiff is
19 informed and believes that each Defendant acted in all respects pertinent to this action as the agent of
20 the other Defendant, carried out a joint scheme, business plan, or policy in all respects pertinent hereto,
21 and that the acts of each Defendant are legally attributable to each of the other Defendant.

22 **IV. FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

23 21. At all times relevant herein, Defendants' restaurants offering a fast-casual dining
24 atmosphere serving Greek Mediterranean fare throughout California. More specifically, NICK THE
25 GREEK offers patrons the options to dine-in and place pick-up/to-go orders and catering orders,
26 whether placed online or in person. The locations at issue in this action are solely the corporate-owned
27 locations and those operated by any of the co-owner-founder cousins: Nicholas Tsigaris, Nicholas
28 Tsigaris, and Nicholas Tsigaris.

1 22. Upon information and belief, Defendant NICK THE GREEK is organized in California
2 and maintains its corporate headquarters, including Human Resources in San Jose, California. Upon
3 information and belief, Defendant NICK THE GREEK maintains a single, centralized Human
4 Resources (“HR”) department at its corporate headquarters in San Jose, California, which is
5 responsible for conducting Defendants’ recruiting and hiring of new employees, as well as
6 communicating and implementing Defendants’ company-wide policies, including timekeeping
7 policies, to employees throughout California. In particular, Plaintiff and other Class Members, on
8 information and belief, received the same standardized documents and/or written policies upon hire.
9 Upon information and belief, the use of standardized documents and/or written policies, including new
10 hire documents, indicate that Defendants dictated policies at the corporate-level and implemented
11 them company-wide, regardless of their employees’ assigned locations or positions. On information
12 and belief, all transactions regarding hiring, terminations, promotions, and pay increases, etc., relating
13 to Defendants’ California employees were submitted to and processed by Defendant NICK THE
14 GREEK’S HR department located in San Jose, California.

15 23. Upon information and belief, Defendants’ corporate records, business records, data, and
16 other information related to Defendants, including, in particular, HR records pertaining to Defendants’
17 California employees, are also maintained at Defendant NICK THE GREEK’S corporate headquarters
18 in San Jose, California.

19 24. At all relevant times, Defendants have been, and continue to be, a “person” as that term
20 is defined under California Business & Professions Code section 17021 and California Labor Code
21 sections 1-29.5.

22 25. At all times relevant herein, Plaintiff was employed by Defendants as an hourly,
23 nonexempt employee in the position of Cook in California during the Class Period.

24 26. At all times relevant herein, Plaintiff and Class Members were assigned to and required
25 and permitted to work without pay while performing tasks including, but not limited to: greeting guests;
26 taking customers’ orders; providing food and drinks ordered to customers; pre-bussing and bussing
27 tables; preparing ingredients and other food items; cooking food; cleaning the kitchen stations;
28

1 processing customers' payments; customer service; dishwashing; and taking out the trash. Plaintiff and
2 Class Members were not properly compensated for some of this work.

3 27. At all times relevant herein, Plaintiff and Class Members worked a substantial amount of
4 time while off-the-clock—meaning they were not punched in for work or their hours were reduced—
5 and therefore, those working hours were not compensated. This off-the-clock time primarily occurred
6 (1) at the end of shifts to perform closing duties like discarding trash, washing dishes, and cleaning,
7 because being clocked in past those pre-scheduled shift hours was discouraged; and (2) assuming
8 Defendants auto-deducted 30 minutes for meal periods, those 30 minutes were all compensable since
9 Plaintiff and Class Members remained at work during their meal periods. So, in those instances, Plaintiff
10 and Class Members performed compensable work off the clock that was never subsequently added and,
11 therefore, remains uncompensated.

12 28. At all times relevant herein, Plaintiff and Class Members were assigned to and required
13 to work for periods lasting in excess of five hours and were not authorized nor permitted to take full-
14 length 30-minute, uninterrupted, off-duty meal periods. Accordingly, Plaintiff's and Class Members'
15 meal periods were on-duty for which Defendants failed to compensate Plaintiff and Class Members with
16 both (1) premium pay for meal periods under 30 minutes and (2) the time worked that was on-duty
17 during these meal periods.

18 29. At all times relevant herein, Plaintiff and Class Members were required to perform work
19 during their meal periods due to Defendants' understaffing policies and practices, which caused Plaintiff
20 and Class Members to (1) primarily, miss their meal periods entirely; and to a lesser degree, (2) begin
21 their meal periods late after the end of the fifth hour or (3) be interrupted during a meal period in which
22 they clocked out but had to return to work, thereby cutting into their 30-minute meal periods and
23 resulting in compensable work performed off the clock. Furthermore, upon information and belief, when
24 Plaintiff and Class Members did not clock out for meal periods, Defendants auto-deducted 30-minutes
25 for meal periods from Plaintiff's and Class Members' total hours worked, ignoring the fact that Plaintiff
26 and Class Members did not clock out for a meal period and the need that those meal periods be recorded
27 accurately and be timely—taken before the end of the fifth hour. Defendants do not compensate Plaintiff
28 and Class Members for this compensable time worked off the clock nor for noncompliant meal periods.

1 30. Moreover, Plaintiff and Class Members regularly worked in excess of 10 hours without
2 a second 30-minute meal period, despite not signing valid meal period waivers.

3 31. At all times relevant herein, Plaintiff and Class Members were assigned to and required
4 and permitted to work shifts lasting over four hours but were not authorized nor permitted to take full,
5 net 10-minute rest breaks during each shift or 4-hour work period.

6 32. At all times relevant herein, Defendants failed to authorize and permit Plaintiff and Class
7 Members to take full, net 10-minute rest breaks during the Class Period. At the direction of Defendants
8 and/or Defendants' knowledge and acquiescence, Plaintiff and Class Members routinely missed their
9 entire 10-minute rest breaks. Accordingly, all rest breaks were noncompliant for which Defendants
10 should have compensated Plaintiff and Class Members with premium pay for noncompliant rest breaks
11 but failed to do so.

12 33. Just like meal periods, Plaintiff and Class Members were required to perform work during
13 their rest breaks and missed their entire rest breaks, because of lack of available staff to relieve Plaintiff
14 and Class Members in light of high volumes of customers waiting for their orders or to place an order.
15 Defendants did not and do not compensate Plaintiff and Class Members for their noncompliant rest
16 breaks.

17 34. These noncompliant meal periods and rest breaks were not cured by premium
18 compensation, and the on-duty meal periods were also not compensated at all let alone at the regular
19 rate of pay, for purposes of Defendants' obligation to pay minimum wages for all hours worked.

20 35. At all times relevant herein, Plaintiff and Class Members worked in excess of eight hours
21 per workday or 40 hours per work week. Defendants failed to pay for all hours worked in excess of
22 eight hours per day, and when compensated for overtime, failed to pay the correct amount of overtime
23 by under-recording and underreporting Plaintiff's and Class Members' total hours worked. Defendants
24 failed to pay current and former hourly, nonexempt employees one and one-half times (1½) their regular
25 rate of pay for hours worked in excess of eight hours per day or 40 hours per workweek. Defendants
26 also failed to pay their employees at a rate no less than twice the regular rate of pay for work in excess
27 of 12 hours in one day or for all hours worked in excess of eight hours on the seventh consecutive day
28 of work in a workweek.

1 36. During the Class Period, Defendants require their hourly, nonexempt employees to
2 perform compensable work while off the clock, including performing compensable work during their
3 meal periods because Plaintiff and Class Members either (1) clocked out for some meal periods and
4 continued working or (2) did not clock out for other meal periods, but Defendants auto-deducted 30
5 minutes for those meal periods anyway. So, when Plaintiff and Class Members did not clock out for
6 their meal periods, upon information and belief, Defendants auto-deducted 30 minutes each shift from
7 Plaintiff's and Class Members' total hours worked, and, therefore, did not pay Plaintiff and Class
8 Members for those hours worked during meal periods nor for their other off the clock time for work
9 performed at the end of shifts to complete closing duties like discarding trash, washing dishes, and
10 cleaning, because being clocked in past those pre-scheduled shift hours was discouraged. Accordingly,
11 during the Class Period, Defendants did not provide minimum wages and overtime pay for this time
12 worked off-the-clock that Plaintiff and the Class endured for the benefit of Defendants as well as
13 minimum wages in the form of unpaid meal period premiums.

14 37. Defendants regularly failed to pay their hourly, nonexempt employees the correct amount
15 of and rate for overtime wages. Defendants fail to record all hours as overtime by failing to record all
16 hours worked in a workday. This work, done primarily for the employer's benefit, is time that hourly,
17 nonexempt employees should be, but were not compensated for, both straight hours and overtime hours
18 worked in excess of 40 hours in a week, hours worked in excess of eight hours in a day, and for the first
19 eight hours worked on the seventh consecutive day of work in a workweek.

20 38. Supervisors employed by Defendants, including at Plaintiff's location, had knowledge of
21 and specifically requested Plaintiff and Class Members to perform compensable work during meal
22 periods and off-shift. Supervisors throughout California were aware that Plaintiff and others similarly
23 situated were performing work during these times without proper wages or overtime compensation
24 because they knew that Plaintiff and Class Members were both working during meal periods and after
25 their scheduled shift times and Plaintiff and Class Members were complying with Defendants' policy to
26 clock out by shift-end.

27 39. In light of Defendants' failure to record employees' off-the-clock time that employees
28 worked and Defendants' failure to acknowledge the noncompliant meal periods and rest breaks,

Defendants failed to properly calculate the hourly, nonexempt employees' hours and therefore, employees' premium pay, minimum wages, and overtime wages due. Accordingly, Defendants failed to provide accurate wage statements to their hourly, nonexempt employees identifying all hours worked and all rates in effect during the pay period.

40. At all times relevant herein, the same unlawful practices and procedures described above affect hourly, nonexempt workers of Defendants employed in California.

41. At all times relevant herein, Defendants failed to pay Plaintiff and Class Members for all hours worked. Thus, Defendants did not pay Plaintiff and Class Members minimum wages in accordance with law and, because Class Members were not compensated for time worked off the clock during meal periods and after scheduled shift times, Defendants also did not pay nonexempt employees all overtime wages in accordance with law.

42. At all times relevant herein, Defendants willfully failed to timely pay Plaintiff's and Class Members who are no longer employed by Defendants Plaintiff's and Class Members' uncompensated hours, meal period premiums, rest break premiums, and any accrued paid time off upon their termination or separation from employment as required by California Labor Code sections 201 and 202.

43. Defendants' conduct, as alleged herein, has caused Plaintiff and Class Members damages including, but not limited to, loss of wages and compensation. Defendants are liable to Plaintiff and the Class for failing to pay minimum wages; failing to pay overtime wages; failing to pay all wages owed every pay period; failing to pay all wages owed upon separation; failing to provide timely and accurate wage statements; and unfair competition.

44. Plaintiff has complied with the procedures for bringing suit specified in California Labor Code section 2699.3. By letter dated March 14, 2025, Plaintiff gave written notice by certified mail to the Labor and Workforce Development Agency ("LWDA"), and Defendants, of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

V. CLASS ACTION AND REPRESENTATIVE ACTION ALLEGATIONS

45. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated employees who all have been exposed to, have suffered, and/or were permitted to work under

Defendants' unlawful employment practices as alleged herein.

46. Plaintiff brings his first through seventh causes of action on behalf of himself and on behalf of the following Class¹ of persons defined as:

All current and former hourly non-exempt employees of corporate-owned locations or Nicholas Tsigaris owned locations of NTG, LLC doing business as NICK THE GREEK in California at any time during the Class Period through the present.

47. This action is appropriately suited for a class action pursuant to Code of Civil Procedure section 382 because there exists an ascertainable and sufficiently numerous Class, a well-defined community of interest, and substantial benefits from certification that render proceeding as a class superior to the alternatives.

48. Numerosity and Ascertainability. The size of the Class makes a class action both necessary and efficient. On information and belief, the proposed Class includes hundreds of current and former employees at Defendants' locations in California. Members of the Class are ascertainable through Defendants' records but are so numerous that joinder of all individual Class Members would be impractical.

49. Predominant Common Questions of Law and Fact. Pursuant to section 382, common questions of law and fact exist as to all Class Members. These questions predominate over any individualized issues. These common questions include but are not limited to:

- a. Whether Defendants' policies and practices described in this Complaint were and are illegal;
- b. Whether Plaintiff and each member of the Class were not paid minimum wage for each hour worked or part thereof during which they were required to perform acts at the direction and for the benefit of Defendants;
- c. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff and the members of the Class who worked as hourly, nonexempt employees in California for the total hours worked during the Class Period;

¹ Plaintiff reserves the right under California Rules of Court, Rule 3.765, to amend or modify the Class description with greater particularity or further division into subclasses or limitation to particular issues.

- 1 d. Whether Defendants have engaged in a common course of requiring or permitting their
2 hourly, nonexempt employees to not report all hours worked during the Class Period;
- 3 e. Whether Defendants have engaged in a common course of failing to maintain true and
4 accurate time records for all hours worked by their nonexempt employees;
- 5 f. Whether Defendants violated Labor Code section 226.7 and/or section 512 and engaged in a
6 pattern or practice of failing to provide timely, off-duty, 30-minute meal periods to Plaintiff
7 and members of the Class who worked as hourly, nonexempt employees in California during
8 the Class Period;
- 9 g. Whether Defendants engaged in a pattern or practice of impeding Plaintiff and Class Members
10 who worked as hourly, nonexempt employees in California during the Class Period from
11 taking full-length off-duty, 30-minute meal periods by understaffing events, which required
12 Plaintiff and Class Members to forgo meal periods to attend to guests of customers' events;
- 13 h. Whether Defendants engaged in a pattern or practice of impeding Plaintiff and the members
14 of the Class who worked as hourly, nonexempt employees in California during the Class
15 Period from taking full-length off-duty, 30-minute meal periods for their second meal periods
16 for shifts worked in excess of 10 hours but not more than 12 hours, where these second meal
17 periods were not waived by mutual consent;
- 18 i. Whether Defendants engaged in a pattern or practice of failing to properly record the start and
19 stop times that Plaintiff and Class Members took their meal periods;
- 20 j. Whether Defendants engaged in a pattern or practice of failing to properly compensate
21 Plaintiff and the members of the Class who worked as hourly, nonexempt employees in
22 California during the Class Period for missed, untimely, or on-duty meal periods as required
23 by California law;
- 24 k. Whether Defendants violated section 11 of the applicable California Industrial Welfare
25 Commission's ("IWC") Wage Order(s) by failing to provide Plaintiff and the members of the
26 Class who worked as hourly, nonexempt employees in California during the Class Period with
27 timely, off-duty, 30-minute meal periods;
- 28

- 1 l. Whether Defendants engaged in an unfair practice and violated California Business and
2 Professions Code, section 17200, *et seq.* by failing to provide Plaintiff and the members of
3 the Class who worked as hourly, nonexempt employees in California during the Class Period
4 with their statutory, off-duty, meal periods;
- 5 m. Whether Defendants maintained accurate time records of off-duty, 30-minute meal periods
6 taken by Plaintiff and members of the Class during the Class Period in accordance with section
7 7 of the applicable IWC Wage Order(s);
- 8 n. Whether Defendants engaged in a pattern or practice of failing to properly compensate
9 Plaintiff and the members of the Class who worked as hourly, nonexempt employees in
10 California during the Class Period for failing to provide full-length 10-minute rest breaks as
11 contemplated by California law for work periods in excess of four hours;
- 12 o. Whether Defendants failed to compensate, and therefore violated section 12 of the applicable
13 IWC Wage Order(s) and Labor Code section 226.7 by failing to provide 10-minute,
14 uninterrupted rest breaks as contemplated by California law for work periods in excess of four
15 hours;
- 16 p. Whether Defendants engaged in a pattern or practice of failing to pay appropriate amounts of
17 overtime pay to Plaintiff and the Class for hours worked in excess of eight hours in a day;
- 18 q. Whether Defendants engaged in a pattern or practice of failing to pay appropriate amounts of
19 double time for hours worked in excess of 12 hours in a day;
- 20 r. Whether Defendants violated section 510 of the Labor Code and/or section 3 of the applicable
21 IWC Wage Order(s) by failing to pay overtime pay to Plaintiff and the Class for hours worked
22 in excess of eight hours in a day;
- 23 s. Whether Defendants violated section 510 of the Labor Code and/or section 3 of the applicable
24 IWC Wage Order(s) by failing to pay overtime pay to Plaintiff and the Class for the first eight
25 hours worked in a day on the seventh consecutive day in a workweek and double time for all
26 hours worked in excess of eight hours on such days;
- 27
28

- t. Whether Defendants violated Labor Code sections 218.5, 204, 1197, and 1198 due to failure to compensate Plaintiff and the Class for those acts Defendants required Plaintiff and members of the Class to perform for the benefit of Defendants;
- u. Whether Defendants violated Labor Code section 226 by issuing inaccurate wage statements to Plaintiffs and members of the Class that failed to accurately state the total hours worked and therefore, the total gross and net wages owed, to the detriment of Plaintiffs and the Class;
- v. Whether Defendants violated Labor Code sections 201, 202, and 203 by engaging in a common course of failing to timely pay nonexempt employees all wages due upon separation;
- w. Whether Defendants violated Labor Code section 226(a) by issuing inaccurate wage statements to Plaintiff and members of the Class that failed to include payments for missed, untimely, and/or on-duty meal periods among wages earned throughout the Class Period;
- x. Whether Defendants violated Labor Code section 226 by issuing inaccurate wage statements to Plaintiff and members of the Class that failed to accurately state the total hours worked and therefore, the total gross and net wages owed, to the detriment of Plaintiff and the Class;
- y. Whether Defendants have engaged in unfair competition by the above-listed conduct; and
- z. The nature and extent of class-wide injury and the measure of damages for the injury.

50. Typicality. Plaintiff's claims are typical of the members of the Class. Plaintiff, like other members of the Class working for Defendants in California, was subjected to Defendants' policies and practices of refusing to properly and fully pay minimum wages, overtime wages, meal period and rest break premiums, failing to pay all wages owed upon separation, and failing to issue accurate wage statements, in violation of California wage and hour laws. Plaintiff's job duties were and are typical of those of other class members who worked for Defendants in California.

51. Adequacy of Representation. Plaintiff will fairly and adequately represent the interests of the Class because his individual interests are consistent with and not antagonistic to the interests of the Class, and because Plaintiff has selected counsel who has the requisite resources and ability to prosecute this case as a class action and are experienced labor and employment attorneys who have successfully litigated other cases involving similar issues.

1 52. Superiority of Class Mechanism. The class action mechanism is superior to any
2 alternatives that might exist for the fair and efficient adjudication of these claims. Proceeding as a class
3 action would permit the large number of injured parties to prosecute their common claims in a single
4 forum simultaneously, efficiently, and without unnecessary duplication of evidence, effort and judicial
5 resources. A class action is the only practical way to avoid the potentially inconsistent results that
6 numerous individual trials are likely to generate. Moreover, class treatment is the only realistic means
7 by which Plaintiff can effectively litigate against a large, well-represented corporate defendant like
8 Defendants. In the absence of a class action, Defendants would be unjustly enriched because they would
9 be able to retain the benefits and fruits of the many wrongful violations of the California state laws.
10 Numerous repetitive individual actions would also place an enormous burden on the courts as they are
11 forced to take duplicative evidence and decide the same issues relating to Defendants' conduct over and
12 over again.

13 **VI. FIRST CAUSE OF ACTION**

14 **Failure to Provide Meal Periods**

15 **in Violation of Cal. Labor Code §§ 512 and 226.7; IWC Wage Order No. 5-2001, § 11**

16 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

17 53. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
18 as if fully set forth herein.

19 54. California Labor Code section 226.7(a) provides, "No employer shall require any
20 employee to work during any meal or rest period mandated by an applicable order of the Industrial
21 Welfare Commission."

22 55. IWC Wage Order No. 5-2001 (11)(A) provides, in pertinent part: "No employer shall
23 employ any person for a work period of more than five (5) hours without a meal period of not less than
24 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work
25 the meal period may be waived by mutual consent of the employer and the employee."

26 56. Section 512(k) of the California Labor Code provides, in pertinent part, that: "An
27 employer may not employ an employee for a work period of more than five hours per day without
28 providing the employee with a meal period of not less than 30 minutes, except that if the total work period

1 per day of the employee is no more than six hours, the meal period may be waived by mutual consent of
2 both the employer and employee. An employer may not employ an employee for a work period of more
3 than 10 hours per day without providing the employee with a second meal period of not less than 30
4 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be
5 waived by mutual consent of the employer and the employee only if the first meal period was not waived.”

6 57. Defendants did not provide Plaintiff and other Class Members with legally compliant, off-
7 duty meal periods, because Plaintiff and other Class Members were required to skip their entire meal
8 periods or else, to a lesser degree, had to respond to interruptions that then required Plaintiff and other
9 Class Members to return to work early from their meal periods.

10 58. Moreover, Defendants engaged in a systematic, companywide policy to not pay meal
11 period premiums. Alternatively, to the extent that Defendants did pay Plaintiff and other Class Members
12 one additional hour of premium pay for missed meal periods, Defendants did not pay Plaintiff and other
13 Class Members at the correct rate of pay for premium wages because Defendants failed to include all
14 forms of compensation, such as commissions, incentive pay, and/or nondiscretionary bonuses, in the
15 regular rate of pay. As a result, to the extent Defendants paid Plaintiff and other Class Members premium
16 pay for missed meal periods, it did so at a lower rate than required by law. As a result, Defendants failed
17 to provide Plaintiff and other Class Members compliant meal periods and failed to pay the full meal
18 period premiums due, in accordance with California Labor Code sections 204, 210, 226.7, and 512.

19 59. By their actions in requiring their employees to work during the entirety or a portion of
20 their meal periods and/or their failure to timely relieve nonexempt, hourly, nonexempt employees of their
21 duties for their off-duty meal periods, Defendants have violated California Labor Code section 226.7 and
22 section 11 of IWC Wage Order No. 5-2001 and is liable to Plaintiff and the Class.

23 60. As a result of the unlawful acts of Defendants, Plaintiff and the Class have been deprived
24 of timely, off-duty meal periods and are entitled to recovery under Labor Code section 226.7(b) and
25 section 11 of IWC Wage Order No. 5-2001, in the amount of one additional hour of pay at the employee’s
26 regular rate of pay for each work period during each day in which Defendants failed to provide their
27 hourly, nonexempt employees with timely, statutory, off-duty meal periods.

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1 **VII. SECOND CAUSE OF ACTION**

2 **Failure to Provide Rest Breaks**

3 **in Violation of Cal. Labor Code §§ 226.7, 512, and 1194;**

4 **IWC Wage Order No. 5-2001, § 12**

5 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

6 61. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
7 as if fully set forth herein.

8 62. California Labor Code section 226.7(a) provides, “No employer shall require any
9 employee to work during any meal or rest period mandated by an applicable order of the Industrial
10 Welfare Commission.”

11 63. IWC Wage Order No. 5-2001, section (12)(A) provides, in pertinent part: “Every
12 employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall
13 be in the middle of each work period. The authorized rest period time shall be based on the total hours
14 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.
15 However, a rest period need not be authorized for employees whose total daily work times is less than
16 three and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which
17 there shall be no deduction from wages.”

18 64. IWC Wage Order No. 5-2001, section (12)(B) provides, “If an employer fails to provide
19 an employee with a rest period in accordance with the applicable provisions of this order, the employer
20 shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each
21 workday that the rest period is not provided.”

22 65. As alleged herein, Defendants failed to authorize and permit compliant rest breaks during
23 the Class Period. Plaintiff and members of the Class were routinely required to work during their entire
24 rest breaks at the direction of Defendants and/or with Defendants’ knowledge and acquiescence.

25 66. Furthermore, as with meal periods, Defendants’ understaffing and job-assignment policies
26 required employees to forgo their 10-minute rest breaks, entirely preventing Plaintiff and Class Members
27 from being relieved of all duty in order to take compliant rest breaks; these practices forced Plaintiff and
28 other Class Members to remain on duty for part of, if not all of, their rest breaks, meaning they did not

1 receive net 10-minute rest breaks. That is, Plaintiff and Class Members' rest breaks were noncompliant
2 because they were not off-duty; Plaintiff and Class Members were required to continue working to handle
3 the steady, large volumes of customers such that they were not permitted to take their rest breaks at all.
4 As a result, Plaintiff and Class Members would work shifts in excess of 3.5 hours without the net 10-
5 minute rest breaks to which they were entitled. More specifically, throughout his employment, during 8-
6 hour or longer shifts, Plaintiff and Class Members regularly worked during the entirety of their 10-minute
7 rest breaks by using that time to continue performing work for Defendants.

8 67. At the same time, Defendants implemented a companywide policy to not pay rest break
9 premiums. Alternatively, to the extent that Defendants did pay Plaintiff and other Class Members one
10 additional hour of premium pay for missed rest breaks, Defendants did not pay Plaintiff and other Class
11 Members at the correct rate of pay for premium wages because Defendants failed to include all forms of
12 compensation, such as commissions, incentive pay, and/or nondiscretionary bonuses, in the regular rate
13 of pay. As a result, to the extent Defendants paid Plaintiff and other Class Members premium pay for
14 missed rest breaks, it did so at a lower rate than required by law. As a result, Plaintiff and other Class
15 Members were denied compliant rest breaks and Defendants failed to pay the full rest break premiums
16 due, in violation of Labor Code section 226.7 and the applicable IWC Wage Order(s).

17 68. Defendants' unlawful conduct alleged herein occurred in the course of employment of
18 Plaintiff and all others similarly situated and such conduct has continued through the filing of the initial
19 Complaint.

20 69. As a direct and proximate result of Defendants' unlawful action, Plaintiff and the Class
21 have been deprived of full-length 10-minute rest breaks and/or were not paid for rest breaks taken during
22 the Class Period and are entitled to recovery under Labor Code section 226.7(b) in the amount of one
23 additional hour of pay at the employee's regular rate of compensation for each work period during each
24 day in which Defendants failed to provide employees with compliant and/or paid rest breaks.

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1 **VIII. THIRD CAUSE OF ACTION**

2 **Failure to Pay Minimum Wages**

3 **Upon Payment of Wages in Violation of Cal. Labor Code §§ 510, 1194, 1194.2,**

4 **and 1197; IWC Wage Order No. 5-2001, § 4**

5 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

6 70. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
7 as if fully set forth herein.

8 71. Labor Code section 510 provides in relevant part: “[e]ight hours of labor constitutes a
9 day’s work. Any work in excess of eight hours in one work day and any work in excess of 40 hours in
10 any one workweek and the first eight hours worked on the seventh day of work in any one workweek
11 shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an
12 employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than
13 twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any
14 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay
15 of an employee.”

16 72. Labor Code section 1197 provides: “The minimum wage for employees fixed by the
17 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
18 minimum so fixed is unlawful.”

19 73. Labor Code section 1182.12 establishes the right of employees to be paid minimum wages
20 for all hours worked in amounts set by state law.

21 74. Labor Code section 1194, subdivision (a) provides: “Notwithstanding any agreement to
22 work for a lesser wage, an employee receiving less than the legal minimum wage or the legal overtime
23 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the
24 full amount of this minimum wage or overtime compensation, including interest thereon, reasonable
25 attorney’s fees, and costs of suit.”

26 75. Labor Code section 1194.2 provides in pertinent part: “In any action under Section 1193.6
27 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed
28 by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount

1 equal to the wages unlawfully unpaid and interest thereon.”

2 76. Pursuant to IWC Wage Order No. 5-2001, section (2)(H), at all times material hereto,
3 “hours worked” includes “the time during which an employee is subject to the control of an employer,
4 and includes all the time the employee is suffered or permitted to work, whether or not required to do
5 so.”

6 77. At all times relevant during the liability period, under the provisions of IWC Wage Order
7 No. 5-2001, Plaintiff and each Class Member should have received not less than the minimum wage in a
8 sum according to proof for the time worked but not compensated.

9 78. For all hours that Plaintiff and Class Members worked, they are entitled to not less than
10 the California minimum wage and, pursuant to Labor Code section 1194.2(a) liquidated damages in an
11 amount equal to the unpaid minimum wages and interest thereon.

12 79. Pursuant to Labor Code section 1194, Plaintiff and Class Members are also entitled to
13 their attorneys’ fees, costs, and interest according to proof.

14 80. At all times relevant during the liability period, Defendants willfully failed and refused,
15 and continue to willfully fail and refuse, to pay Plaintiff and Class Members the amounts owed.

16 81. As described earlier, Defendants mandated that Plaintiff and Class Members perform
17 various forms of compensable work off-the-clock including, but not limited to, (1) work performed at the
18 end of shifts to complete closing duties like discarding trash, washing dishes, and cleaning, because being
19 clocked in past those pre-scheduled shift hours was discouraged and (2) assuming Defendants auto-
20 deducted 30 minutes for meal periods, those 30 minutes were all compensable since Claimants remained
21 at work on-duty during their meal periods. Defendants do not provide minimum wages and overtime pay
22 for this off-the-clock time. Defendants do not provide minimum wages and, where eligible, overtime
23 pay for this off-the-clock time. These off-the-clock periods exist for the sole benefit of Defendants and
24 occurred frequently and regularly at Defendants’ locations throughout California. This illegal practice
25 has been in effect by Defendants since at least the start of the Class Period.

26 82. As described above, Defendants required Plaintiff and Class Members to work during
27 their meal periods so that they would prepare orders and serve guests in a timely manner despite
28 Defendants’ understaffing policies and practices. That is, Plaintiff and Class Members were required to

1 work through their meal periods and did not clock out, while Defendants' practice was, upon information
2 and belief, to auto-deduct 30 minutes for Plaintiff's and Class Members' phantom meal periods. If
3 Plaintiff and Class Members were interrupted during their meal periods after clocking out, Plaintiff and
4 Class Members were required to return to work without clocking back in 30 minutes for their meal period
5 had elapsed. Defendants did not pay at least minimum wages for off-the-clock hours. And to the extent
6 these off-the-clock hours qualified for overtime premium pay, Defendants also did not pay overtime
7 wages for that off-the-clock time.

8 83. Defendants' unlawful conduct alleged herein occurred in the course of employment of
9 Plaintiff and all other similarly situated nonexempt, hourly, nonexempt employees, and Defendants have
10 done so continuously throughout the filing of this complaint.

11 84. As a direct and proximate result of Defendants' violation of Labor Code sections 510 and
12 1197, Plaintiff and other Class Members have suffered irreparable harm and money damages entitling
13 them to damages, injunctive relief or restitution. Plaintiff, on behalf of himself and on behalf of the Class,
14 seeks damages and all other relief allowable including all wages due while working as Defendants'
15 hourly, nonexempt employees, attorneys' fees, liquidated damages, prejudgment interest, and as to those
16 employees no longer employed by Defendants, waiting time penalties pursuant to Labor Code sections
17 200, *et seq.*

18 85. Plaintiff and Class Members are entitled to the unpaid amount of minimum wages, pre-
19 judgment interest, liquidated damages, statutory penalties, attorneys' fees, and costs according to Labor
20 Code sections 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil Procedure 1021.5.

21 **IX. FOURTH CAUSE OF ACTION**

22 **Failure to Pay Overtime Wages**

23 **in Violation of Cal. Labor Code §§ 510 and 1194, IWC Wage Order No. 5-2001, § 3**

24 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

25 86. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
26 as if fully set forth herein.

27 87. Pursuant to section 3 of IWC Wage Order No. 5-2001; California Code of Regulations,
28

1 Title 8, Chapter 5, section 11040, section 12; and Labor Code sections 200, 204, 226, 500, 510, 512,
2 1194, and 1198, Defendants were required to compensate Plaintiff and members of the Class for all
3 overtime hours worked, which is calculated at one and one-half (1½) times the regular rate of pay for
4 hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on
5 the seventh consecutive work day, with double time after eight hours on the seventh day of any work
6 week, or after 12 hours in any work day.

7 88. Plaintiff and members of the Class were and are nonexempt employees entitled to the
8 protections of IWC Wage Order No. 5-2001; California Code of Regulations, Title 8, section 11040,
9 section 12; and Labor Code sections 200, 226, 500, 510, 512, 1194, and 1198. In addition, during the
10 Class Period, Plaintiff and other members of the Class consistently worked five days per week for shifts
11 of eight hours or more. During the course of Plaintiff's employment, and during the course of the
12 employment of the members of the Class, Defendants failed to compensate Plaintiff and the Class for
13 overtime hours worked as required under the aforementioned Labor Codes and Regulations.

14 89. Under the aforementioned Wage Orders, statutes, and regulations, Plaintiff and members
15 of the Class are entitled to one and one-half (1½) times and/or double their regular rate of pay for overtime
16 work performed during the four years preceding the filing of this Complaint, based on appropriate
17 calculations of the "total remuneration" for each workweek.

18 90. In violation of state law, Defendants have knowingly and willfully refused to perform
19 their obligations to compensate Plaintiff and the Class for all wages earned and all hours worked. As a
20 direct result, Plaintiff and the Class have suffered, and continue to suffer, substantial losses related to the
21 use and enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking
22 to compel Defendants to fully perform their obligations under state law, all to their respective damage in
23 amounts according to proof at time of trial, but in amounts in excess of the minimum jurisdiction of this
24 Court.

25 91. Defendants committed the acts alleged herein knowingly and willfully, with the wrongful
26 and deliberate intention of injuring Plaintiff and the Class, from improper motives amounting to malice,
27 and in conscious disregard of Plaintiff's rights and the rights of the Class. Plaintiff and the Class are thus
28 entitled to recover nominal, actual, compensatory, punitive, and exemplary damages in amounts

1 according to proof a time of trial, but in amounts in excess of the minimum jurisdiction of this Court.

2 92. Defendants' conduct described herein violates IWC Wage Order No. 5-2001; California
3 Code of Regulations, Title 8, section 11040, section 12; and Labor Code sections 200, 226, 500, 510,
4 512, and 1198. Therefore, pursuant to Labor Code sections 200, 203, 204, 226, 226.7, 512, 558, and
5 1194, Plaintiff and the Class are entitled to recover the unpaid balance of overtime compensation
6 Defendants owes Plaintiff and the Class, plus interest, penalties, attorneys' fees, expenses, and costs of
7 suit.

8 **X. FIFTH CAUSE OF ACTION**

9 **Failure to Pay All Wages Owed Upon Separation**

10 **in Violation of Cal. Labor Code §§ 201–203**

11 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

12 93. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint
13 as if fully set forth herein.

14 94. Labor Code section 201 provides, in relevant part, “[I]f an employer discharges an
15 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

16 95. Labor Code section 202 provides, in relevant part, “[I]f an employee not having a written
17 contract for a definite period quits his or his employment, his or his wages shall become due and payable
18 not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or his
19 intention to quit, in which case the employee is entitled to his or his wages at the time of quitting.”

20 96. Section 203 of the California Labor Code provides that if an employer willfully fails to
21 pay compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the
22 employer is liable for penalties in the form of continued compensation up to 30 workdays.

23 97. At all times relevant during the liability period, Plaintiff and the other members of the
24 Class were employees of Defendants covered by Labor Code section 203. Pursuant to Labor Code
25 section 201, upon Plaintiff's and the Class Members' respective separation dates, Defendants were
26 required to pay Plaintiff and Class Members all wages earned. Plaintiff was terminated, but Defendants
27 did not pay Plaintiff all of his final wages immediately following his termination as required and in
28 violation of Labor Code section 201. On September 10, 2024, Defendants terminated Plaintiff. However,

Defendants did not give Plaintiff his final check immediately on September 10, 2024. On or about September 17, 2024 or about one week following his termination, Defendants provided Plaintiff his wages via direct deposit at the time of Defendants' regular payroll schedule. This payment was not made immediately upon termination as required by law, and the ultimate final check did not account for all wages owed Defendants owed Plaintiff.

98. That is, when Defendants did pay Plaintiff, Plaintiff's final pay did not include all unpaid meal period and rest break premiums, and all hours worked to-date whether straight time or overtime.

99. At the time of Plaintiff's and the Class Members' respective separation dates, Plaintiff and Class Members had unpaid wages. Defendants willfully failed to pay Plaintiff and other members of the Class who are no longer employed by Defendants for their uncompensated hours, uncompensated overtime, and missed, untimely, or on-duty meal periods and rest breaks upon their termination or separation from employment with Defendants as required by California Labor Code sections 201 and 202. Thus, in violation of Labor Code section 201, Defendants failed to pay Plaintiff and these Class Members the full amount of wages due and owing them, in amounts to be proven at the time of trial, but in excess of the jurisdictional minimum of this Court.

100. Defendants' failure to pay Plaintiff and the Class their respective wages due and owed to them was willful, and done with the wrongful and deliberate intention of injuring Plaintiffs and the Class Members and in conscious disregard of their rights.

101. Defendants' willful failure to pay former employee Plaintiff and the Class all of the wages due and owing them constitutes violations of Labor Code sections 201 and 203, which provide that an employee's wages will continue as a penalty up to 30 days from the time the wages were due. Therefore, Plaintiff and the Class Members are each entitled to penalties pursuant to Labor Code section 203.

XI. SIXTH CAUSE OF ACTION

Failure to Furnish Timely and Accurate Wage Statements

Upon Payment of Wages in Violation of Cal. Labor Code § 226

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

102. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

1 103. Labor Code section 226(a) sets forth reporting requirements for employers when they pay
2 wages, as follows: “Every employer shall . . . at the time of each payment of wages, furnish his or her
3 employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked
4 by the employee . . . (3) the number of piece-rate units earned and any applicable piece rate if the
5 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written
6 orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
7 dates of the period for which the employee is paid, (7) the name of the employee and only the last four
8 digits of their social security number or an employee identification number other than a social security
9 number, (8) the name and address of the legal entity that is the employer . . . , and (9) all applicable hourly
10 rates in effect during the pay period and the corresponding number of hours worked at each hourly rate
11 by the employee

12 104. Labor Code section 226(e) provides: “An employee suffering injury as a result of a
13 knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover
14 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
15 and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding
16 an aggregate penalty of four thousand dollars (\$4,000), and shall be entitled to an award of costs and
17 reasonable attorney’s fees.”

18 105. First, Defendants failed to display the correct legal name of Defendant—NTG, LLC—on
19 Plaintiff’s and Class Members’ wage statements, in violation of Labor Code section 226(a)(8). Those
20 paystubs are missing the comma.

21 106. Defendants failed to accurately record and display the correct total hours and overtime
22 hours worked by Plaintiff and Class Members on Plaintiff’s and Class Members’ wage statements, in
23 violation of Labor Code section 226(a)(2).

24 107. Defendants failed to display the correct amounts for meal period premiums and rest break
25 premiums owed to Plaintiff and Class Members on Plaintiff’s and Class Members’ wage statements, in
26 violation of Labor Code section 226 subsections (a)(1) and (a)(9).

27 108. Consequently, because Defendants failed to (1) accurately record and display the correct
28 total hours and overtime hours worked and (2) display the correct amounts for meal period premiums and

rest break premiums owed, Defendants also failed to accurately display the gross and net wages earned, in violation of Labor Code section 226 subsections (a)(1) and (a)(5).

109. Plaintiff and Class Members were damaged by these failures because, among other things, the failures hindered Plaintiff and the Class from determining the amounts of wages actually owed to them.

110. Plaintiff and Class Members request recovery of Labor Code section 226(e) penalties according to proof, as well as interest, attorneys' fees and costs pursuant to Labor Code section 226(e), in a sum as provided by the Labor Code and/or other statutes.

XII. SEVENTH CAUSE OF ACTION

Violations of California's Unfair Competition Law ("UCL"),

California Business and Professions Code §§ 17200, *et seq.*

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

111. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

112. Section 17200 of the California Business and Professions Code (the "UCL") prohibits any unlawful, unfair, or fraudulent business practices.

113. Through their actions alleged herein, Defendants have engaged in unfair competition within the meaning of the UCL. Defendants' conduct, as alleged herein, constitutes unlawful, unfair, and/or fraudulent business practices under the UCL.

114. Defendants' unlawful conduct under the UCL includes, but is not limited to, violating the statutes alleged herein. Defendants' unfair conduct under the UCL includes, but is not limited to, failure to pay Class Members wages and compensation they earned through labor provided, and failing to otherwise compensate Class Members, as alleged herein. Defendants' fraudulent conduct includes, but is not limited to, issuing wage statements containing false and/or misleading information about the time the Class Members worked and the amount of wages or compensation due.

115. Defendants' violations of California wage and hour laws and illegal payroll practices or payment policies constitute a business practice because they were done repeatedly over a significant period of time, and in a systematic manner to the detriment of Plaintiff and Class Members.

116. Plaintiff has standing to assert this claim because he has suffered injury in fact and has lost money as a result of Defendants' conduct.

117. For the four years preceding the filing of this action, Plaintiff and Class Members have suffered damages and request restitutionary disgorgement of all monies and profits to be disgorged from Defendants in an amount according to proof at the time of trial and an injunction prohibiting them from engaging in the unlawful, unfair, and/or fraudulent conduct alleged herein.

XIII. EIGHTH CAUSE OF ACTION

For Civil Penalties Pursuant to California's Private Attorneys General Act of 2004 ("PAGA"),

§§ 2698, *et seq.*, for Violations of California Labor Code Sections

(Brought by Plaintiff on Behalf of Himself and the General Public Against Defendant All Defendants)

118. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

119. PAGA provides that any provision of law under the Labor Code and applicable IWC Wage Order(s) that provides for a civil penalty to be assessed and collected by California's Labor and Workforce Development Agency ("LWDA") for violations of the California Labor Code and applicable IWC Wage Order(s) may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

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

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

122. Pursuant to Labor Code sections 2699.3 and 2699.5, aggrieved employees, including Plaintiff, may pursue a civil action arising under PAGA, alleging violations of any provision listed in section 2699.5, after the following requirements have been met:

- a. The aggrieved employee shall give written notice (“Employee’s Notice”) by online filing to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations;
- b. The Employee’s Notice filed with the LWDA is accompanied by a \$75 filing fee; and
- c. The LWDA shall provide notice (“LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within 65 calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

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

- a. The aggrieved employee shall give written notice by online filing (“Employee’s Notice”) to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations;
- b. The Employee’s Notice filed with the LWDA is accompanied by a \$75 filing fee; and
- c. The employer may cure the alleged violation within 33 calendar days of the postmark date of the Employee’s Notice. The employer shall give written notice by certified mail within that period of time to the aggrieved employee or representative and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employee may commence a civil action pursuant to Section 2699.

124. On March 14, 2025, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have

1 been violated, including facts and theories to support the alleged violations, in accordance with California
2 Labor Code section 2699.3. Plaintiff's notice to the LWDA was accompanied by the \$75 filing fee. A
3 true and correct copy of Plaintiff's written notice to the LWDA; NTG, LLC doing business as NICK
4 THE GREEK dated March 14, 2025 is attached hereto as "**Exhibit 1.**" Exhibit 1 is incorporated into this
5 Complaint by reference.

6 125. As of the filing date of the initial complaint, over 65 days have passed since Plaintiff sent
7 the LWDA Notice described above, and the LWDA has not responded that it intends to investigate
8 Plaintiff's claims. Defendants have not given notice that it has cured the alleged violations set forth in
9 this Complaint. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code
10 section 2699.3(a) and (c) to recover civil penalties against all defendants, in addition to other remedies,
11 for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d),
12 1182.12, 1194, 1197, 1197.1, and 1198.

13 126. Labor Code section 558(a) provides that "[a]ny employer or other person acting on behalf
14 of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating
15 hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil
16 penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each
17 pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid
18 wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
19 each pay period for which the employee was underpaid in addition to an amount sufficient to recover
20 underpaid wages." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this
21 section are in addition to any other civil or criminal penalty provided by law."

22 127. Defendants, at all times relevant herein, were employers or persons acting on behalf of an
23 employer(s) who violated Plaintiff's and other non-party aggrieved employees' rights by violating
24 various sections of the California Labor Code as set forth above.

25 128. As set forth below, Defendants have violated numerous provisions of both the Labor Code
26 sections regulating hours and days of work as well as the applicable IWC Wage Order(s), including:

- 27 a. Violations of Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage
28 Order(s) for Defendants' failure to provide Plaintiff and other Class Members with

compliant meal periods and/or rest breaks, as set forth above;

- b. Violations of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198, and the applicable IWC Wage Order(s) for Defendants' failure to compensate Plaintiff and other Class Members with at least minimum wages for all hours worked as set forth above;
- c. Violations of Labor Code sections 510, 1198, and the applicable IWC Wage Order(s) for Defendants' failure to compensate Plaintiff and other Class Members with overtime wages for all hours worked in excess of eight in one day or 40 in one week and double time for all hours worked in excess of 12 hours, as set forth above;
- d. Violations of Labor Code sections 226(a), 1198, and the applicable IWC Wage Order(s) for failure to provide accurate and complete wage statements to Plaintiff and other Class Members as set forth above;
- e. Violations of Labor Code sections 1174(d), 1198, and the applicable IWC Wage Order(s) for failure to maintain payroll records. 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(s). 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(s), 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, Defendants failed, on a companywide basis, to keep records of meal period start and stop times for Plaintiff and other non-party aggrieved employees in violation of section 1198. 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" During the relevant time period,

1 and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain
2 accurate payroll records for Plaintiff and other non-party aggrieved employees showing
3 the daily hours they actually worked and the wages paid thereto as a result of failing to
4 record the off-the-clock hours that they worked;

5 f. Violations of Labor Code section 204 for failure to pay all earned wages during
6 employment as set forth above;

7 g. Violations of Labor Code sections 201, 202, and 203 for failure to pay all earned wages
8 upon termination as set forth above;

9 h. Plaintiff and other non-party aggrieved employees are therefore entitled to recover
10 penalties, attorneys' fees, costs, and interest thereupon, pursuant to Labor Code section
11 2699(f)-(g); and

12 i. Any and all additional applicable civil penalties and sums as provided by the California
13 Labor Code and/or other relevant statutes.

14 129. Pursuant to California Labor Code sections 2699(a), 2699.3, 2699.5, and section 558,
15 Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of
16 civil penalties for himself, all other non-party aggrieved employees, and the State of California against
17 all Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202,
18 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

19 130. In addition, Plaintiff seeks and is entitled to sixty-five percent (65%) of all penalties
20 obtained under California Labor Code section 2699 to be allocated to the LWDA, for education of
21 employers and employees about their rights and responsibilities under the California Labor Code, and
22 thirty-five percent (35%) to all aggrieved employees.

23 131. Further, Plaintiff is entitled to recover reasonable attorneys' fees and costs pursuant to
24 California Labor Code sections 2699(g)(1), 218.5, 1194(a) and any other applicable statute.

25 **XIV. PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated and also on behalf
27 of the general public, respectfully requests that this Court find against all defendants as follows:

28 1. An order that this action may proceed and may be maintained as a class action;

2. All unpaid minimum wages and liquidated damages due to Plaintiff and each Class Member on their minimum wage claims;
3. All unpaid overtime wages due to Plaintiff and each Class Member;
4. One hour of wages due to Plaintiff and each Class Member for each work period of more than four hours when they did not receive an uninterrupted 10-minute rest break;
5. One hour of wages due to Plaintiff and each Class Member for each work period of more than five hours when they did not receive an uninterrupted 30-minute meal period;
6. All unpaid minimum wages and liquidated damages due to Plaintiff and each Class Member on their minimum wage claim;
7. For restitution of all monies due to Plaintiff and members of the Class and disgorged profits from the unlawful business practices of Defendants;
8. For waiting time penalties pursuant to Labor Code section 203;
9. Statutory penalties under Labor Code section 226(e);
10. For penalties pursuant to violations of Labor Code sections 201, 202, 203, 204, 206, 210, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174.5, 1182.12, 1194, 1194.2, 1197.1, and 1198;
11. For injunctive relief enjoining Defendants from engaging in the unlawful and unfair business practices complained of herein;
12. For all civil penalties permitted by California's Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, based on all the alleged statutory violations set forth in this Complaint;
13. For costs of suit and expenses incurred herein pursuant to Labor Code sections 226 and 1194;
14. Prejudgment interest at the maximum legal rate on all due and unpaid wages pursuant to Labor Code section 218.6 and Civil Code sections 3287 and 3289;
15. For reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226, 1194, 2699(g), and Code of Civil Procedure section 1021.5;
16. Accounting of Defendants' records for the liability period;
17. General, special, and consequential damages, to the extent allowed by law; and
18. All such other and further relief that the Court may deem just and proper.

1 Dated: May 22, 2025

2 **ABRAMSON LABOR GROUP**

3 By: 
4 Cheryl A. Kenner

5 Attorneys for Plaintiff ANGEL JIMENEZ
6 and all others similarly situated and aggrieved
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff ANGEL JIMENEZ, on behalf of himself and all others similarly situated and aggrieved,
3 hereby demands a jury trial with respect to all issues triable of right by jury.

4 Dated: May 22, 2025

5 **ABRAMSON LABOR GROUP**

6 By: 
7 Cheryl A. Kenner

8 Attorneys for Plaintiff ANGEL JIMENEZ
9 and all others similarly situated and aggrieved

EXHIBIT 1



1700 W Burbank Blvd.
Burbank, California 91506
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Cheryl.K@abramsonlabor.com
www.AbramsonLaborGroup.com

March 14, 2025

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

NTG, LLC
Attn: Human Resources
2855 Stevens Creek Blvd., Ste. 2465
San Jose, CA 95128

NTG, LLC
Attn: Legal Department
5765 Winfield Blvd.
San Jose, CA 95123

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR CODE
SECTION 2698, ET SEQ.**

To: The California Labor and Workforce Development Agency; NTG, LLC doing business
as Nick The Greek ("Nick the Greek")

From: Angel Jimenez, on behalf of himself and all other current and former hourly nonexempt
employees for violations of the California Labor Code

To Whom It May Concern:

Abramson Labor Group has been retained by former employee Angel Jimenez ("Mr. Jimenez") to seek compensation and all other available relief, including civil penalties on his behalf and on the behalf of all those similarly aggrieved (collectively with Mr. Jimenez, "Claimants") who have been injured by NTG, LLC doing business as Nick The Greek's ("Nick the Greek") violations of the California Labor Code. Mr. Jimenez, on behalf of himself and all other similarly aggrieved current and former hourly nonexempt employees of Nick the Greek, intend 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.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

Nick the Greek operates numerous Nick the Greek restaurant locations in California, each of which offers patrons a fast-casual dining atmosphere, as well as dine-in, pick-up/to-go orders, and catering orders, whether placed online or in person.

Claimant Mr. Jimenez worked at Nick the Greek's San Jose location from approximately May 15, 2023 to September 10, 2024 as an hourly, nonexempt employee in the position of Cook (earning \$20.00 per hour). Mr. Jimenez, on behalf of himself and all other similarly aggrieved current and former employees in California in various positions, are or were generally engaged in serving restaurant patrons and providing labor at Nick the Greek's various restaurant locations. As part of his employment with Nick the Greek, Mr. Jimenez and Claimant and other hourly, nonexempt employees, collectively, "hourly nonexempt employees," are or were assigned to and required to suffer and permitted to work without pay, while performing tasks collectively including, but not limited to, greeting guests; taking customers' orders; providing food and drinks ordered to customers; pre-bussing and bussing tables; preparing ingredients and other food items; cooking food; cleaning the kitchen stations; processing customers' payments; customer service; dishwashing; and taking out the trash.

Claimant Mr. Jimenez regularly worked six days per week for 6.5 hours or more hours per day. During the entire course of his employment, Nick the Greek failed to provide Mr. Jimenez and continues to fail to provide those similarly aggrieved with some overtime pay and compliant meal periods and rest breaks. Nick the Greek has also failed to pay minimum wages to Mr. Jimenez and other hourly, nonexempt employees in violation of Labor Code sections 510, 1194, 1197, and 1182.12, and section 4 of IWC Wage Order No. 5-2001. As a consequence of failing to pay minimum wages, Nick the Greek has failed to comply with Labor Code sections 226.7, 510, and 512, and sections 3, 11, and 12 of all applicable Industrial Welfare Commission ("IWC") Wage Orders, including but not limited to, IWC Wage Order No. 5-2001. In violation of Labor Code sections 510, 1194, 1197, and 1182.12, Nick the Greek has failed to compensate Claimants at a rate of one and one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek.

Nick the Greek has also failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204. Likewise, Nick the Greek has failed and continues to fail to provide timely, accurate wage statements to Mr. Jimenez and other aggrieved persons in violation of Labor Code section 226(a). With regard to those no longer employed by Nick the Greek, including Mr. Jimenez, Nick the Greek violated Labor Code section 203 by failing to timely pay all wages due upon separation. Mr. Jimenez is informed and believes that such violations are ongoing, systematic, and continuous. Mr. Jimenez intend to bring an action against Nick the Greek under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Jimenez, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101,

Theories of Labor Code Violations and Remedies:

Claimant Mr. Jimenez was employed by Nick the Greek from approximately May 15, 2023 to September 10, 2024 as an hourly, nonexempt employee holding the position of Cook. For a period of at least four (4) years prior to March 2024, but for our purposes here, one (1) year prior, Nick the Greek has violated and continues to violate the California Labor Code sections as detailed below.

Claimants also were at all times entitled to payment of **minimum wages**. Nick the Greek has failed and continues to fail to pay Claimants minimum wages for all hours worked as required by Labor Code sections 510, 1194, and 1194.2 and sections 4 and 5 of IWC Wage Order No. 5-2001. First, Claimants worked while off-the-clock—meaning they were not punched in for work—and therefore, those working hours were not recorded and then compensated. This off-the-clock time primarily occurred (1) at the end of shifts to perform closing duties like discarding trash, washing dishes, and cleaning, because being clocked in past those pre-scheduled shift hours was discouraged; and (2) assuming Nick the Greek auto-deducted 30 minutes for meal periods, those 30 minutes were all compensable since Claimants remained at work during their meal periods. That is, Claimants continued working during their meal periods without clocking out while also not receiving meal period premiums for that time worked. Accordingly, Claimants were not paid for that time spent working off the clock for meal periods if that time was auto-deducted. That is, Defendant implemented policies and enforced practices requiring Claimants to perform compensable work while clocked out at the end of shifts, the effects of which Defendant could have mitigated by adjusting expectations and/or by adding more staff to reduce the expected daily workload. However, Defendant instead chose to instruct Claimants to continue working while clocked out, and as explained in the two paragraphs to follow, to forgo meal periods and to skip all rest breaks. In effect, these policies and practices cause Claimants to have noncompliant meal periods and to remain on-duty during rest breaks, and therefore, constitute a failure on Nick the Greek's part to provide compliant rest breaks. With that, Nick the Greek's corresponding failure to provide premium pay at the correct regular rate, if any premiums were paid at all, in lieu of compliant meal periods and rest breaks constitutes Nick the Greek's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 510, 1182.12, 1194, and 1197. Second, Nick the Greek's failure to pay Claimants their meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail below, also constitutes a failure to pay minimum wages to Claimants. For all of the foregoing reasons, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 5-2001.

Claimants were at all times entitled to unpaid off-duty, uninterrupted **meal periods**. As explained in the preceding paragraph, Nick the Greek failed to authorize and permit timely, full-length meal periods for Mr. Jimenez and all other similarly aggrieved employees as required by Labor Code sections 226.7 and 512 and section 11 of IWC Wage Order No. 5-2001. Mr. Jimenez and all similarly aggrieved persons were regularly unable to timely commence their 30-minute meal periods; in fact they did not take their meal periods at all. Despite that, Nick the Greek did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant meal periods for each workday on which they occurred. In fact, Mr. Jimenez's final—or near final—paycheck issued reveals that Nick the Greek failed to pay him a single meal period premium the entire year. Accordingly, since Nick the Greek required Mr. Jimenez and others similarly

1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

situated to forgo their meal periods late in violation of Labor Code sections 226.7(a) and 512, Claimants seek all available penalties as set forth in Labor Code sections 558, section 20 of IWC Wage Order No. 5-2001, and 2699(f).

Claimants were at all times entitled to take paid, off duty 10-minute **rest breaks**. Nick the Greek failed to authorize and permit Mr. Jimenez and all other similarly aggrieved employees to take any full-length, off-duty rest breaks as required by Labor Code sections 226.7 and section 12 of IWC Wage Order No. 5-2001. Nick the Greek enforced a policy that did not permit Claimants from taking any of their rest breaks because the restaurant was very busy and would be short-staffed if personnel took rest breaks. As such, Claimants were not able to take their requisite number of 10-minute rest breaks based on their shift duration; Claimants regularly worked through their rest breaks. Nick the Greek did not compensate Claimants with an extra hour of pay at the regular rate for noncompliant rest breaks for each workday on which they occurred. In fact, Mr. Jimenez's final—or near final—paycheck reveals that Nick the Greek failed to pay him a single rest break premium the entire year. Therefore, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 558 and section 20 of IWC Wage Order No. 5-2001. Furthermore, since Nick the Greek required their hourly nonexempt employees to perform work during rest periods in violation of Labor Code section 226.7(b), Claimants seek all available penalties set forth in Labor Code sections 558 and 2699.

At all times relevant herein, Claimants were entitled to the payment of **overtime**. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Nick the Greek was required to compensate Claimants at a rate of one-and-one-half (1.5) times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over 12 hours per workday and eight hours on the seventh day of a workweek. Mr. Jimenez occasionally worked and Claimants regularly worked overtime hours. Nick the Greek has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that should have been compensated as overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Nick the Greek failed to provide Mr. Jimenez and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order 5-2001, section 3.

Pursuant to Labor Code sections 201–203, Claimants who have since separated from Nick the Greek, including Mr. Jimenez, were entitled to be paid all **wages owed upon separation** within the statutorily allotted time—immediately (resignation with notice and termination) or within 72 hours (resignation without notice). Claimants, including Mr. Jimenez, did not receive his final pay of all wages within the requisite time based on the circumstances of his separation nor did he receive all wages Nick the Greek owed Mr. Jimenez based on Nick the Greek's prior failings to pay all wages owed every pay period, including but not limited to minimum and overtime wages, all meal and rest premiums owed, as explained above. Nick the Greek paid Mr. Jimenez his final wages approximately seven days after his termination on via direct deposit at the time of Nick the Greek's regular payroll schedule, not immediately upon termination as required by law.

Claimants were at all times entitled to be provided timely and accurate **wage statements** from Nick the Greek pursuant to Labor Code section 226. First, Mr. Jimenez's wage statements do not reflect the correct legal name of Defendant—NTG, LLC—his paystubs are missing the comma. Second, because Nick the Greek failed to pay Claimants all of their meal period and rest break premiums for noncompliant meal periods and rest breaks and failed to pay Claimants minimum wages for all hours worked during and after their shifts and for all overtime wages due, Claimants' wage statements were inaccurate in reflecting meal period and rest break premiums owed, overtime and minimum wages, and all hours worked every pay period. As a consequence, Claimants' wage statements also do not reflect the accurate amount of net and

gross wages owed. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

Nick the Greek's uniform failure to pay overtime and minimum wages, failure to authorize and permit full-length, off-duty rest breaks and meal periods or pay Claimants adequate premium compensation in lieu thereof, failure to furnish timely and accurate wage statements, and failure to timely pay all wages upon separation violate Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1182.12, 1194, and 1197, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, *et seq.*, and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Claimants seek the remedies set forth in the above-referenced Labor Code sections for themselves, 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), 2699.3(c), and 2699.5, Mr. Jimenez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for themselves, all other aggrieved employees, and the State of California against Nick the Greek for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

Should you require any additional information, please feel free to contact me.

Sincerely,

ABRAMSON LABOR GROUP

A handwritten signature in black ink, reading "Cheryl Kenner". The signature is written in a cursive, flowing style.

Cheryl A. Kenner