

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Upinder Kalra

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MARY MERAZ; ARTURO CRUZ
QUINTERO;

Plaintiffs,

vs.

MEAR FOODS, INC; MEAR
MANOOCHERI; AND DOES 1 to 25,
inclusive,

Defendants.

CASE NO.: **22STCV34531**

COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;**
- 2) FAILURE TO PAY MINIMUM WAGES**
- 3) FAILURE TO PAY OVERTIME;**
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;**
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;**
- 6) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS;**
- 7) FAILURE TO GIVE REST BREAKS;**
- 8) FAILURE TO GIVE MEAL BREAKS**
- 9) PRIVATE ATTORNEYS GENERAL ACT ("PAGA");**
- 10) FAILURE TO REIMBURSE BUSINESS EXPENSES;**
- 11) RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6;**
- 12) RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5;**
- 13) DISCRIMINATION ON THE BASIS OF MENTAL DISABILITY IN VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT ("FEHA");**
- 14) FAILURE TO ACCOMMODATE MENTAL DISABILITY IN**

) VIOLATION OF FEHA;
) 15) FAILURE TO ENGAGE IN
) INTERACTIVE PROCESS TO
) DETERMINE REASONABLE
) ACCOMMODATION IN
) VIOLATION OF FEHA;
) 16) RETALIATION IN VIOLATION OF
) FEHA;
) 17) FAILURE TO PREVENT
) DISCRIMINATION AND
) RETALIATION IN VIOLATION OF
) FEHA;
) 18) WRONGFUL TERMINATION IN
) VIOLATION OF PUBLIC POLICY;
) 19) VIOLATION OF CALIFORNIA
) BUSINESS AND PROFESSIONS
) CODE SECTION 17200.
) DEMAND FOR JURY TRIAL

COMES NOW Plaintiffs Mary Meraz and Arturo Cruz Quintero (hereinafter collectively “Plaintiffs”), and allege as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in County of Los Angeles in this judicial district because Defendants MEAR FOODS, INC; MEAR MANOOCHERI and DOES 1 to 25, inclusive do business in the County of Los Angeles and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiffs in the County of Los Angeles is the subject of this action. Moreover, Plaintiffs’ damages sought herein exceed \$25,000.

2. Plaintiff Mary Meraz (“Plaintiff Meraz”) is a female resident of the County of Los Angeles, State of California.

3. Plaintiff Arturo Cruz Quintero (“Plaintiff Cruz”) is a male resident of the County of Los Angeles, State of California.

4. Plaintiffs are informed and believe that at all times herein mentioned, Defendant

1 MEAR FOODS, INC. is and was a California corporation, doing business in Los Angeles
2 County and which employed Plaintiffs.

3 5. Plaintiff is informed and believes that at all times herein mentioned, Defendant
4 MEAR MANOOCHERI is a male resident of the County of Los Angeles, State of California,
5 and an owner, director, officer, and/or managing agent of Defendant MEAR FOODS, INC.
6 MEAR MANOOCHERI is being included in this lawsuit pursuant to California Labor Code
7 Section 558.1 for the specific labor code violations alleged herein as he controlled the hours,
8 wages, and working conditions of Plaintiff and others and was directly involved in the day-to-
9 day operations of the Defendant's businesses. Defendants MEAR FOODS, INC. and MEAR
10 MANOOCHERI are collectively referred to herein as "MEAR FOODS" or "Defendant(s)".

11 6. Plaintiffs are ignorant of the true names and capacities, whether individual, corporate,
12 or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff
13 sues them by these fictitious names. Plaintiffs are informed and believe that each of the DOE
14 defendants, numbers 1 to 25, reside in the State of California and are in some manner
15 responsible for the conduct alleged herein, especially under Labor Code Section 558.1 wherein
16 the owners or managing agents of corporations or businesses, especially those involved in the
17 day-to-day activities of the business, can be held personally liable for wage and hour violations
18 because they controlled the wages, hours, and/or working conditions of the employees . Upon
19 discovering the true names and capacities of these fictitiously named defendants, Plaintiffs will
20 amend this complaint to show the true names and capacities of these fictitiously named
21 defendants.
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24 7. Unless otherwise alleged in this complaint, Plaintiffs are informed, and on the basis of
25 that information and belief, allege that at all times herein mentioned, each of the remaining
26 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
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1 under the authority of their agency, employment, or representative capacity, with the consent
2 of his/her codefendants.

3 **GENERAL ALLEGATIONS**

4 **Plaintiff Mary Meraz**

5 8. Plaintiff Meraz started working for MEAR FOODS on or around 2013. During her
6 employment tenure, Plaintiff Meraz was classified as an hourly, non-exempt employee and
7 earned approximately \$18.00 per hour as an assistant manager.

8 9. MEAR FOODS has committed numerous labor code violations against Plaintiff Meraz
9 and other similarly situated aggrieved employees.

10 10. MEAR FOODS has committed the below labor code violations against Plaintiff Meraz
11 and other hourly, non-exempt employees. In the case of Huff v. Securitas Sec. Servs. USA,
12 Inc., 23 Cal. App. 5th 745 (2018), Plaintiff Huff, was employed as a security guard for
13 the Defendant Employer, Securitas Security Services USA, Inc., an onsite security provider.
14 After about a year of employment, Huff resigned. Huff then filed suit against Securitas under
15 PAGA. In his claim, Huff specifically alleged violations to the Labor Code requiring
16 immediate payment of wages upon termination of employment and weekly payment of wages
17 to temporary employees. The trial court determined Huff was not a temporary employee, and
18 therefore, lacked standing to bring the claim. Thus, Securitas was granted a motion for
19 summary judgement. Later, the trial court granted Huff a new trial. Securitas then appealed the
20 grant of a new trial. On appeal, the issue was whether Huff could bring a PAGA claim and sue
21 for Labor Code violations that did not directly affect him. Securitas unsuccessfully argued that
22 the PAGA statute only allows the PAGA representative to sue for violations that the
23 representative has personally suffered. The PAGA statute states that an “aggrieved employee”
24 is able to file suit on behalf of themselves and others. The statute also states that an “aggrieved
25 employee” is “any person who was employed by the alleged violator and against whom one or
26 more of the alleged violations was committed.” Because at least one of the violations that Huff
27 had alleged had affected him personally, the Court of Appeal denied Securitas’ motion.
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1 11. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
2 other employees, it allows for suits broader than the specific violations the named employee
3 experienced. Therefore, even if the employee did not personally experience the Labor Code
4 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff
5 Meraz's position that Plaintiff Meraz can equivocally bring the following labor code violations
6 on behalf of all hourly employees, including hourly non-exempt employees.
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8 12. MEAR FOODS did not provide Plaintiff Meraz and other similarly situated aggrieved
9 employees with the minimum wages to which they were entitled for all work performed and did
10 not compensate him and others for all hours worked pursuant to California Labor Code sections
11 1194, 1197 and 1197.1. This is so because Plaintiff Meraz and others consistently worked "off
12 the clock" in that the company had a policy of rounding down hours to the detriment of
13 employees who would not be paid for all hours worked. In addition, Plaintiff Meraz consistently
14 worked "off the clock" in that she performed work duties from home in doing the scheduling,
15 getting and answering calls, receiving complaints about what the cashier was doing, responding
16 to alarms going off due to broken windows, issues with CO2 alarms, etc. In addition, Plaintiff
17 Meraz would be instructed by MEAR MAOOCHERI to go to Smart and Final to pick up items
18 for the restaurant while "off the clock". Consequently, Plaintiff Meraz was not being paid for all
19 hours worked and was not being paid the minimum wage for all hours worked. Ownership was
20 unequivocally aware that Plaintiff Meraz was performing this work but did not pay her at all for
21 these hours in contravention of California law. In addition, and to the extent that Plaintiff Meraz
22 performed work obligations during any alleged meal period, it would be akin to a minimum wage
23 violation since Plaintiff Meraz and others were not paid for all hours worked. It is also important
24 to note that Plaintiff Meraz and others would miss hours constantly from their pay and would
25 have to bring it up to the accountant to fix these issues.

26 13. Due to the above , including the "off the clock" work, MEAR FOODS also violated
27 Labor Code §510 because it failed to pay Plaintiff Meraz and other similarly situated aggrieved
28 employees overtime, even though they worked more than 8 hours per day, 12 hours per day,

1 and/or 40 hours per week throughout their employment. This is so because MEAR FOODS did
2 not factor in the “off the clock” hours for purposes of overtime payment. As such, Plaintiff Meraz
3 and others simply did not receive overtime compensation even though they clearly worked
4 overtime hours. Moreover, any bonuses or incentive payments were not factored into Plaintiff
5 Meraz’s and others’ regular rate of pay for purposes of deciphering the correct overtime rate of
6 pay.

7 14. MEAR FOODS violated Labor Code §§ 512 and 226.7 along with the applicable
8 Industrial Welfare Commission Wage Order (no. 5) because it failed to provide Plaintiff Meraz
9 and other similarly situated aggrieved employees the requisite 30-minute, uninterrupted meal
10 periods for every five (5) hours of work throughout their employment, and Plaintiff Meraz did
11 not validly waive said meal periods. MEAR FOODS did not completely relieve Plaintiff Meraz
12 of all duties during said meal periods. MEAR FOODS did not pay to Plaintiff Meraz one
13 additional hour of pay at Plaintiff Meraz’s regular rate of compensation for each workday that
14 one or more statutory meal periods was not provided. It was not part of the company culture for
15 employees such as Plaintiff Meraz and others to consistently receive a meal break before the 5th
16 hour worked and for the meal break to be at least 30-minutes and uninterrupted. In fact, Plaintiff
17 Meraz never got a timely, uninterrupted 30-minute meal period during her employment tenure.
18 There was never an actual time set aside for a meal break per California law, especially due to
19 her work duties and the fast-paced restaurant environment. It was the normal practice and
20 custom of MEAR FOODS not to authorize, permit, and enforce statutory meal periods. As such,
21 the environment and culture at MEAR FOODS, especially in a fast-paced restaurant, was not
22 conducive to receiving statutory meal breaks under California law.

23 15. Similarly, MEAR FOODS violated Labor Code § 226.7 along with the applicable
24 Industrial Welfare Commission Wage Order (no. 5) because it failed to provide Plaintiff Meraz
25 and other similarly situated aggrieved employees 10-minute rest periods for every four hours of
26 work, or majority portion thereof, throughout their employment. MEAR FOODS did not
27 completely relieve Plaintiff Meraz of all duty during said rest periods. MEAR FOODS did not
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1 pay to Plaintiff Meraz one additional hour of pay at Plaintiff Meraz's regular rate of
2 compensation for each workday that one or more statutory rest periods was not provided. Like
3 the situation involving meal breaks, it was not company policy and not part of the company
4 culture for employees such as Plaintiff Meraz and others to take timely, uninterrupted rest breaks
5 per day. In fact, Plaintiff Meraz and others did not receive a single statutory rest break throughout
6 their employment tenure. As such, the culture at MEAR FOODS did not lend itself to the
7 employees receiving timely and uninterrupted statutory breaks wherein they were relieved of all
8 work duties. It was the normal practice and custom of MEAR FOODS not to authorize, permit,
9 and enforce statutory rest periods.

10 16. Furthermore, during the relevant time period, and due to the violations as alleged above,
11 MEAR FOODS failed to pay Plaintiff Meraz and other similarly situated aggrieved employees
12 all wages due to them within any time period specified by California Labor Code section 204.
13 MEAR FOODS was also in violation of California Labor Code section 226(a) by failing to
14 include pertinent information on the wage statements, including but not limited to, all hours
15 worked, all hourly rates in effect, overtime hours worked, gross wages earned, premium pay for
16 missed meal and rest breaks, all deductions, net wages earned, gross wages earned, all
17 deductions, the correct name and address of the employing entity, the start and end of the pay
18 period, and reimbursement for business expenses, among others. As such, MEAR FOODS did
19 not provide Plaintiff Meraz and other similarly situated aggrieved employees with complete,
20 accurate itemized wage statements during the PAGA period.

21 17. MEAR FOODS violated Labor Code § 203 because it willfully failed to pay Plaintiff
22 Meraz other similarly situated aggrieved employees their earned and due wages upon separation
23 of employment, either immediately upon involuntary termination, or within 72 hours of
24 resignation. These earned but unpaid wages include compensation for all hours worked, overtime
25 compensation, premium pay for missed meal and rest breaks, and business expense
26 reimbursement, among others.

27 18. During the relevant time period, MEAR FOODS also failed to keep accurate and
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1 complete payroll records showing the hours worked by Plaintiff Meraz and other similarly
2 situated aggrieved employees (including when meal breaks were taken) as well as the correct
3 wages paid to Plaintiff Meraz and other aggrieved employees pursuant to California Labor Code
4 sections 1174(d).

5 19. Moreover, Plaintiff Meraz and other aggrieved employees incurred necessary, business-
6 related expenses and costs that were not reimbursed by MEAR FOODS. These costs include, but
7 are not limited to, mileage for use of Plaintiff Meraz's vehicle for work purposes in picking up
8 items from Smart and Final for the restaurant. Accordingly, MEAR FOODS was in violation of
9 California Labor Code sections 2800 and 2802.

10 20. Moreover, MEAR FOODS failed to provide sick pay pursuant to Labor Code section 246
11 and also failed to provide Worker's Compensation coverage for Plaintiff Meraz and other
12 aggrieved employees in violation of Labor Code Section 3700.5.

13 21. Moreover, Plaintiff Meraz would also have individual claims against MEAR FOODS for
14 disability discrimination and failure to accommodate in violation of the Fair Employment and
15 Housing Act (FEHA) in that Plaintiff Meraz was terminated on or around June 2022 after having
16 to go on medical leave due to mental disabilities, including extreme stress and anxiety. Defendant
17 Mear Manoocheri was fully aware of Plaintiff Meraz's mental disabilities, made a conscious
18 decision not to accommodate her mental disabilities, and in fact retaliated against Plaintiff Meraz
19 by terminating her employment due to her disabilities in contravention of California law and
20 then somehow arguing that Plaintiff Meraz quit her employment without notice.

21 **Plaintiff Arturo Cruz Quintero**

22 22. Plaintiff Cruz started working for MEAR FOODS on or around 2012 or 2013. During
23 his tenure, Plaintiff Cruz was the assistant manager and was classified as an hourly, non-
24 exempt employee.

25 23. It is Plaintiff's position that MEAR FOODS has violated numerous Labor Code
26 Sections against Plaintiff Cruz and other hourly, non-exempt employees.

27 24. MEAR FOODS has committed the below labor code violations against Plaintiff Cruz
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1 and other hourly, non-exempt employees. In the case of Huff v. Securitas Sec. Servs. USA,
2 Inc., 23 Cal. App. 5th 745 (2018), Plaintiff, Huff, was employed as a security guard for the
3 Defendant Employer, Securitas Security Services USA, Inc., an onsite security provider. After
4 about a year of employment, Huff resigned. Huff then filed suit against Securitas under
5 PAGA. In his claim, Huff specifically alleged violations to the Labor Code requiring
6 immediate payment of wages upon termination of employment and weekly payment of wages
7 to temporary employees. The trial court determined Huff was not a temporary employee, and
8 therefore, lacked standing to bring the claim. Thus, Securitas was granted a motion for
9 summary judgement. Later, the trial court granted Huff a new trial. Securitas then appealed the
10 grant of a new trial. On appeal, the issue was whether Huff could bring a PAGA claim and sue
11 for Labor Code violations that did not directly affect him. Securitas unsuccessfully argued that
12 the PAGA statute only allows the PAGA representative to sue for violations that the
13 representative has personally suffered. The PAGA statute states that an “aggrieved employee”
14 is able to file suit on behalf of themselves and others. The statute also states that an “aggrieved
15 employee” is “any person who was employed by the alleged violator and against whom one or
16 more of the alleged violations was committed.” Because at least one of the violations that Huff
17 had alleged had affected him personally, the Court of Appeal denied Securitas’ motion.

18 25. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
19 other employees, it allows for suits broader than the specific violations the named employee
20 experienced. Therefore, even if the employee did not personally experience the Labor Code
21 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff’s
22 position that Plaintiff Cruz can equivocally bring the following labor code violations on behalf
23 of all hourly employees, including hourly non-exempt employees.

24 26. MEAR FOODS did not provide Plaintiff Cruz and other aggrieved employees with the
25 minimum wages to which they were entitled for work performed “off the clock” and as such did
26 compensate Plaintiff Cruz and other hourly, non-exempt employees for all hours worked,
27 pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so because Plaintiff
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1 Cruz is owed compensation for his hours worked and has not been paid for all hours worked.
2 Moreover, Plaintiff Cruz would consistently work “off the clock” in that he would be ordered by
3 the owner to complete work-related tasks either before or after his shifts. The latter included
4 going to the store and buying flour/groceries or going to another Popeye’s location to pick up
5 items. The owner would tell Plaintiff Cruz that he was going to pay for that work, but never did.
6 In addition, the company had a policy and practice of “time shaving” and rounding down hours
7 (or alteration of hours) worked to the detriment of employees, including Plaintiff, which would
8 be akin to a minimum wage violation. As such, MEAR FOODS violated Labor Code § 1194 and
9 1194.2 because it failed to pay Plaintiff Cruz and others California’s statutory minimum wage
10 and wages for all hours worked and failed to compensate Plaintiff and others for all hours
11 worked.

12 27. Since MEAR FOODS failed to pay Plaintiff Cruz and other employees for all hours
13 worked, especially for the “off the clock” hours, this means that MEAR FOODS also violated
14 Labor Code §510 because it failed to pay Plaintiff Cruz and others overtime, even though they
15 worked more than 8 hours per day and/or 40 hours per week throughout their employment.
16 Plaintiff’s actual work hours entitled him to overtime compensation and to the correct amount
17 of overtime compensation under the law. Moreover, when Plaintiff Cruz did in fact work
18 overtime, there was a company policy and practice of not providing overtime compensation to
19 Plaintiff Cruz. As such, the owner would deduct \$1.00 from Plaintiff Cruz’s then regular rate of
20 pay and would provide Plaintiff Cruz with a separate check for overtime hours, except Plaintiff
21 Cruz would not receive 1.5 times his pay for hours worked over 8 in a day or for working over
22 40 hours in a week. In other words, Plaintiff Cruz would get a separate check for his “overtime
23 hours” but would only be paid straight time at a REDUCED rate of pay. MEAR FOODS’
24 overtime compensation was clearly and unequivocally illegal and in violation of California law.
25 Furthermore, to the extent that Plaintiff Cruz and others received any incentive or bonus
26 payments, those payments were not factored into the regular rate of pay for purposes of
27 calculating the overtime rate of pay.
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1 28. MEAR FOODS also violated Labor Code § 226.7 and the applicable Industrial Welfare
2 Commission Wage Order no. 5 because it failed to provide Plaintiff Cruz and other hourly, non-
3 exempt employees with 10-minute rest periods for every four hours of work, or majority portion
4 thereof, throughout his employment. MEAR FOODS did not completely relieve Plaintiff Cruz
5 of all duty during said rest periods. MEAR FOODS did not pay to Plaintiff Cruz one additional
6 hour of pay at Plaintiff's regular rate of compensation for each workday that one or more
7 statutory rest periods was not provided. It was not company policy for employees such as
8 Plaintiff Cruz to take rest breaks. In fact, rest breaks were not enforced or part of the company
9 culture. Like the situation involving meal breaks (described below), it was not company policy
10 and not part of the company culture for employees such as Plaintiff Cruz and others to take
11 timely, uninterrupted rest breaks per day. In fact, Plaintiff Cruz and others did not receive a
12 single statutory rest break throughout their employment tenure. As such, the culture at MEAR
13 FOODS did not lend itself to the employees receiving statutory breaks wherein they were
14 relieved of all work duties.

15 29. MEAR FOODS violated Labor Code §§ 512 and 226.7 and the applicable IWC Wage
16 Order no. 5 because it failed to provide Plaintiff Cruz and other hourly, non-exempt employees
17 the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout
18 his employment. MEAR FOODS did not completely relieve Plaintiff Cruz of all duty during said
19 meal periods. MEAR FOODS did not pay to Plaintiff Cruz one additional hour of pay at
20 Plaintiff's regular rate of compensation for each workday that one or more statutory meal periods
21 was not provided. Plaintiff Cruz simply did not receive meal periods throughout his employment.
22 There was no such thing as Plaintiff Cruz receiving a timely (before the 5th hour worked), 30-
23 minute, uninterrupted meal period wherein Plaintiff was not performing work obligations. Once
24 again, the latter simply did not exist. There was never an actual time set aside for a meal break
25 per California law, especially due to Plaintiff Cruz's work duties and the fast-paced restaurant
26 environment. As such, it was company culture and company policy for Plaintiff to not receive a
27 thirty-minute uninterrupted meal period wherein he is relieved of all work-related duties.
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1 30. Furthermore, during the relevant time period, and due to all of the aforementioned
2 violations, MEAR FOODS failed to pay Plaintiff Cruz and others all wages due to him within
3 any time period specified by California Labor Code section 204. MEAR FOODS was also in
4 violation of California Labor Code section 226(a), by failing to include pertinent information on
5 the wage statements, including but not limited to, all hours worked (regular and overtime), all
6 applicable hourly rates, gross wages earned, net wages earned, the correct start and end of the
7 pay period, the correct name and address of the employing entity, all required employee
8 identification information, all overtime hours worked, and premium pay for the missed meal and
9 rest breaks, among others. As such, MEAR FOODS did not provide Plaintiff Cruz and others
10 with complete, accurate itemized wage statements.

11 31. MEAR FOODS violated Labor Code § 203 because it willfully failed to pay Plaintiff
12 Cruz and other similarly situated aggrieved employees their earned and due wages upon
13 separation of employment, either immediately upon involuntary termination, or within 72 hours
14 of resignation. These earned but unpaid wages include compensation for all hours worked,
15 overtime compensation, premium pay for missed meal and rest breaks, and business expense
16 reimbursement, among others.

17 32. During the relevant time period, MEAR FOODS also failed to keep accurate and
18 complete payroll records showing the hours worked by Plaintiff Cruz and other similarly situated
19 aggrieved employees (including when meal breaks were taken) as well as the correct wages paid
20 to Plaintiff Cruz and other aggrieved employees pursuant to California Labor Code sections
21 1174(d).

22 33. Additionally, during the relevant time period, Plaintiff Cruz and others incurred
23 necessary, business-related expenses and costs that were not reimbursed by MEAR FOODS.
24 These costs include, but are not limited to, reimbursement for mileage for use of his personal
25 vehicle. Accordingly, MEAR FOODS was in violation of California Labor Code sections 2800
26 and 2802.

27 34. Moreover, MEAR FOODS failed to provide sick pay pursuant to Labor Code section 246
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1 and also failed to provide Worker's Compensation coverage for Plaintiff Cruz and other
2 aggrieved employees in violation of Labor Code Section 3700.5.

3 35. In addition, Plaintiff Cruz would also have claims against MEAR FOODS for
4 retaliation in violation of Labor Code Sections 1102.5 and 98.6 in that Plaintiff Cruz was
5 retaliated against for his own complaints about wage and hour violations but also after his wife,
6 Plaintiff Mary Meraz, instituted wage and hour claims (including a PAGA claim) against
7 MEAR FOODS. In response to receiving a PAGA notice from Plaintiff's wife, the owner cut
8 Plaintiff Cruz's hours from 45 hours per week to 35 hours per week and also took away
9 Plaintiff Cruz's assistant manager duties. Plaintiff Cruz requested a transfer to another location,
10 which the owner denied. The owner essentially told Plaintiff Cruz that he would be treating
11 Plaintiff unfairly based on the legal claims instituted by Plaintiff Mary Meraz. Moreover,
12 ownership has also ignored Plaintiff Cruz's complaints about work-related injuries, including
13 pain and injury to his arm. Plaintiff Cruz was eventually terminated on or around August 2022
14 as a retaliatory measure in contravention of California and in violation of Labor Code sections
15 98.6 and 1102.5.

16 **FIRST CAUSE OF ACTION**

17 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

18 **(California Industrial Welfare Commission Order 4/5-2001, California Code of**
19 **Regulations Title 8 Section 11040/11050, and California Labor Code Section 1198)**

20 **(Plaintiffs against all named defendants and all DOE defendants)**

21 36. Plaintiffs re-allege and incorporate by reference each and every allegation in
22 paragraphs 1 through 35, inclusive, of this Complaint as though fully set forth herein.

23 37. At all times relevant herein, Defendants were required to compensate its employees
24 for all hours worked upon reporting for work at the appointed time stated by the employer
25 pursuant to Industrial Welfare Commission Order 4/5-2001, California Code of Regulations,
26 Title 8, Section 11040/11050.

27 38. For the three (3) years preceding filing of this action, Defendants failed to compensate
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1 Plaintiffs for all hours worked.

2 39. Under the aforementioned wage order and regulations, Plaintiffs are to recover
3 compensation for all hours worked but not paid by Defendants for the three (3) years
4 preceding the filing of this Complaint.

5 40. As a proximate result of the aforementioned violations, Plaintiffs have been damaged in
6 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
7 this Court.

8 41. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194,
9 and 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiffs are
10 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
11 reasonable attorney's fees and costs of suit.

12 42. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
13 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
14 amount known to Plaintiffs once they have obtained all of their payroll records from
15 Defendants.

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO PAY MINIMUM WAGES**

18 **(California Labor Code Sections 1194, 1194.2, 1197)**

19 **(Plaintiffs against all named defendants and all DOE defendants)**

20 43. Plaintiffs re-allege and incorporate by reference each and every allegation in
21 paragraphs 1 through 42, inclusive, of this Complaint as though fully set forth herein.

22 44. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an
23 employer to suffer or permit a California employee to work without paying wages at the
24 minimum wage rate for all hours worked as required by the applicable Industrial Welfare
25 Commission Wage Order No. 4/5-2001, codified at California Code of Regulations,
26 Title 8, Section 11040/11050, subdivision 4.

27 45. Pursuant to IWC Wage Order no. 4/5-2001, subdivision 2(K), at all relevant times,
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1 “hours worked” included “the time during which an employee is subject to the control of an
2 employer, and includes all the time the employee is suffered or permitted to work, whether or
3 not required to do so...”

4 46. During their employment, Plaintiffs were regularly required as a matter of uniform
5 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiffs
6 were paid less than the minimum wage rate by Defendants for hours worked in violation of
7 California Labor Code Section 1197 and the applicable California Industrial Wage
8 Commission wage order(s).

9 47. Plaintiffs were, at all relevant times, under the control of Defendants and suffered or
10 permitted to work by Defendants. Defendants’ acts or omissions in failing to adequately
11 compensate Plaintiffs were not in good faith nor were there reasonable grounds for Defendants
12 to believe that their acts or omissions were not contrary to California law.

13 48. For all hours worked by Plaintiffs for which they were paid less than the minimum
14 wage rate by Defendants, Plaintiffs are entitled to not less than the applicable California
15 minimum wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an
16 amount equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section
17 1194, Plaintiffs are also entitled to attorney’s fees, costs and interests according to proof.

18 49. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
19 along with any allowable interest, penalties, attorney’s fees, and costs according to proof at
20 trial.

21 **THIRD CAUSE OF ACTION**

22 **FAILURE TO PAY OVERTIME**

23 **(California Industrial Welfare Commission Order 4/5-2001, California Code of**

24 **Regulations Title 8 Section 11040/11050)**

25 **(Plaintiffs against all named defendants and all DOE defendants)**

26 50. Plaintiffs re-allege and incorporate by reference each and every allegation in
27 paragraphs 1 through 49, inclusive, of this Complaint as though fully set forth herein.
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1 51. Pursuant to Industrial Welfare Commission 4-2001/5-2001, California Code of
2 Regulations, Title 8, Section 11040/11050 for the period of Plaintiffs' employment,
3 Defendants were required to compensate Plaintiffs for all overtime, which is calculated at one
4 and one-half (1.5) times the regular rate of pay for hours worked in excess of eight (8) in a day
5 or forty (40) hours in a week, and two (2) times the regular rate of pay for hours worked in
6 excess of twelve (12) hours in a day or hours worked in excess of eight (8) on the seventh
7 consecutive work day in a week.

8 52. Plaintiffs were supposed to be non-exempt employees entitled to the protections of the
9 California Industrial Welfare Commission Order No. 4-2001/5-2001, California Code of
10 Regulations, Title 8, Section 11040/11050.

11 53. Plaintiffs worked more than eight (8) hours or twelve (12) hours in a single workday or
12 forty (40) hours in a single workweek on numerous occasions.

13 54. Plaintiffs were entitled to the above overtime premiums.

14 55. Defendants did not pay Plaintiffs premium wages of at least one and one-half times
15 Plaintiffs' regular rate of pay for hours worked past eight (8) in a day and two-times Plaintiffs'
16 regular rate of pay for hours worked past twelve (12) in a day.

17 56. Defendants did not pay Plaintiffs premium wages of at least one and one-half times
18 Plaintiffs' regular rate of pay for hours worked past forty (40) in a week.

19 57. Plaintiffs worked at least one pay period in which they were not properly paid overtime
20 within the three (3) years prior to the initiation of this lawsuit.

21 58. Defendants know or should know the actual dates of overtime worked, the amount of
22 overtime worked, and the amount of unpaid overtime due.

23 59. As a proximate result of Defendants' violations, Plaintiffs have been damaged in an
24 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
25 Court.

26 60. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
27 Regulations, Title 8, Sections 11050, Plaintiffs are entitled to recover damages for the
28 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus

1 reasonable attorney's fees and costs of suit.

2 61. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
3 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
4 trial.

5 **FOURTH CAUSE OF ACTION**

6 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

7 **(California Labor Code Section 226)**

8 **(Plaintiffs against all named defendants and all DOE defendants)**

9 62. Plaintiffs re-allege and incorporate by reference each and every allegation in
10 paragraphs 1 through 61, inclusive, of this Complaint as though fully set forth herein.

11 63. Pursuant to California Labor Code Section 226, every employer must furnish each
12 employee an itemized statement of wages and deductions at the time of payment of wages.

13 64. Defendants knowingly and intentionally did not furnish Plaintiffs with pay stubs that
14 accurately reflected all information required by Labor Code Section 226, including but not
15 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
16 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
17 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
18 Plaintiffs in accordance with California Labor Code Section 226(a).

19 65. Pursuant to California Labor Code Section 226(e), Plaintiffs are entitled to recover the
20 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
21 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
22 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
23 reasonable attorney's fees. Plaintiffs only claim damages under this cause of action pursuant to
24 the 3-year period immediately preceding the date this lawsuit was filed.

25 66. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have
26 sustained damages, including loss of earnings, in an amount to be established at trial. As a
27 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
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1 Plaintiffs are entitled to recover penalties, in an amount to be established at trial, as well as
2 costs and attorney's fees pursuant to statute.

3 67. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
4 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
5 trial.

6 **FIFTH CAUSE OF ACTION**

7 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

8 **(California Labor Code Section 204)**

9 **(Plaintiffs against all named defendants and all DOE defendants)**

10 68. Plaintiffs re-allege and incorporate by reference each and every allegation in
11 paragraphs 1 through 67, inclusive, of this Complaint as though fully set forth herein.

12 69. California Labor Code Section 204 establishes the fundamental right of all employees
13 in the State of California to be paid wages in a timely fashion for their work.

14 70. At all times relevant during the liability period, Defendants failed to pay Plaintiffs the
15 full amount of all owed wages when due as required by California Labor Code Section 204.

16 71. Defendants failed to pay Plaintiffs all wages earned each pay period. Plaintiffs are
17 informed, believe, and thereon allege, that all times relevant during the liability period,
18 Defendants maintained a policy or practice of not paying Plaintiffs wages for all hours worked,
19 including overtime hours and premium pay for missed rest breaks and meal breaks.

20 72. As a result of Defendants' unlawful conduct, Plaintiffs have suffered damages in an
21 amount, subject to proof, to the extent they were not paid all wages each pay period. The
22 precise amount of unpaid wages is not presently known to Plaintiffs but can be determined
23 directly from Defendants' records or indirectly based on information from Defendants'
24 records.

25 73. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
26 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
27 trial.
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1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

3 **(California Labor Code Sections 201, 202, 203)**

4 **(Plaintiffs against all named defendants and all DOE defendants)**

5 74. Plaintiffs re-allege and incorporate by reference each and every allegation in
6 paragraphs 1 through 73, inclusive, of this Complaint as though fully set forth herein.

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8 75. Pursuant to California Labor Code Section 201(a), an employer who discharges an
9 employee must immediately pay for all compensation due and owing.

10 76. Pursuant to California Labor Code Section 202, when an employee resigns, the
11 employer must pay all compensation due and owing within 72 hours of resignation, or on the
12 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

13 77. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
14 without abatement or reduction, any wages of an employee whose employment ends, the wages
15 of the employee shall continue as a penalty from the due date at the same rate until paid or until
16 an action is commenced; however, the wages shall not continue for more than 30 days for
17 failure to pay an employee owed wages.

18 78. After Plaintiffs' employment with Defendants ended, Defendants willfully refused and
19 continue to refuse to pay them their unpaid wages as required by Labor Code Section 203.

20 79. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
21 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
22 trial. Moreover, Plaintiffs pray for the above-mentioned money from 3 years immediately
23 preceding the filing of this lawsuit.

24 80. Under this cause of action, Plaintiffs also pray for attorney's fees and costs under
25 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
26 forth herein. Plaintiffs also pray for interest under California Labor Code Section 218.6.

27 81. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
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1 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
2 trial.

3 **SEVENTH CAUSE OF ACTION**

4 **FAILURE TO GIVE REST BREAKS**

5 **(Plaintiffs against all named defendants and all DOE defendants)**

6 82. Plaintiffs re-allege and incorporate by reference each and every allegation in
7 paragraphs 1 through 81, inclusive, of this Complaint as though fully set forth herein.

8 83. Plaintiffs bring this cause of action under the following laws, for the following reasons:

- 9 a. Title 8 of the California Code of Regulations Sections 11040/11050(12)(A), which
10 provides that every employer shall authorize and permit all employees to take rest
11 periods, which insofar as practicable shall be in the middle of each work period.
12 The authorized rest period time shall be based on the total hours worked daily at the
13 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
14 b. Title 8 of the California Code of Regulations Sections 11040/11050(12)(B), which
15 provides that if an employer fails to provide an employee a rest period in
16 accordance with the applicable provisions of this order, the employer shall pay the
17 employee one (1) hour of pay at employee's regular rate of compensation for each
18 workday that the rest period is not provided;
19 c. Title 8 of the California Code of Regulations sections 11040/11050(20)(A), which
20 penalizes the employer \$50.00 for each initial violation, per employee, of any
21 provision of the Wage Order, and \$100.00 for each additional violation thereafter
22 per employee; and
23 d. California Labor Code section 226.7, which states that (a) no employer shall require
24 any employee to work during any rest period mandated by an applicable order of
25 the Industrial Welfare Commission, and (b) if an employer fails to provide an
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1 employee a rest period in accordance with an applicable order of the Industrial
2 Welfare Commission, the employer shall pay the employee one (1) additional hour
3 of pay at employee's regular rate of compensation for each work day that the rest
4 period is not provided.

5 84. Plaintiffs allege that they were not authorized and permitted to take a ten (10) minute
6 rest break after every four (4) hours of work or major fraction thereof, as required by California
7 law.

8 85. Under this cause of action, Plaintiffs pray for wages due to them under the statutes,
9 regulations, and wage orders alleged in this cause of action along with any allowable interest,
10 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiffs pray for
11 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

12 86. Plaintiffs also pray for Labor Code section 218.5 recovery of costs and attorney's
13 fees as well as interest under Labor Code section 218.6.

14 87. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged
15 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
16 trial.

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18 **EIGHTH CAUSE OF ACTION**

19 **FAILURE TO GIVE MEAL BREAKS**

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21 **(Plaintiffs against all named defendants and all DOE defendants)**

22 88. Plaintiffs re-allege and incorporate by reference each and every allegation in
23 paragraphs 1 through 87, inclusive, of this Complaint as though fully set forth herein.

24 89. Plaintiffs bring this cause of action under the following laws, for the following
25 reasons:

- 26 a. California Labor Code section 512(a), which requires that employees be given a 30-
27 minute uninterrupted meal break after five (5) hours of work, and a second
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uninterrupted meal break after ten (10) hours of work;

- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- c. California Industrial Welfare Commission Order No. 4/5 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11040/11050, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 4/5 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11040/11050, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 4/5 Section 20(A), as codified under California Code of Regulations Section 11040/11050, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California

Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 4 and 5) as enforceable law.

90. Plaintiffs allege that they were not authorized and permitted to take relieved meal breaks after five (5) hours of work. Plaintiffs further allege that they were not authorized and permitted to take a second relieved meal break after ten (10) hours of work, as required by California law. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 4/5, as codified under California Code of Regulations Sections 11040/11050 et. seq. requires that employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of all work duty. California Labor Code section 226.7 provides that employers may not require their employees to work through their meal periods. California Labor Code section 226.7 and California Code of Regulations section 11040/11050 requires that if the employer fails to provide the employee with an uninterrupted meal period, the employer must pay the employee one (1) hour of pay for each work day that the meal period is not given.

91. Under this cause of action, Plaintiffs pray for wages due to them under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiffs pray for the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

92. Plaintiffs also pray for Labor Code section 218.5 recovery of costs and attorney's fees as well as interest under Labor Code section 218.6.

93. Under this cause of action, Plaintiffs pray for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

NINTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

Representative Claim for PAGA penalties under California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197.1, 1198, 2802, 3700.5)

(Plaintiffs Against All Named Defendants and all DOE Defendants)

94. Plaintiffs re-allege and incorporate by reference each and every allegation in paragraphs 1 through 93, inclusive, of this Complaint as though fully set forth herein.

95. Pursuant to law, Plaintiffs provided the required written notice to the LWDA and Defendants of the specific violations of the California Labor Code that Defendants and DOE defendants have violated and continue to violate.

96. Pursuant to California Labor code section 2699.3, no response was received from the LWDA within 65 days of the postmark date of the above-alleged letter.

97. Plaintiffs therefore have exhausted all administrative remedies required of them under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants' violations of the Labor Code.

98. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in California Labor Code section 2699.3.

99. Each Plaintiff is an "aggrieved employee" because Plaintiffs were employed by the alleged violator and had one or more of the alleged violations committed against them, and therefore, are properly suited to represent the interests of other current and former employees, including all current and former hourly, non-exempt employees who worked for MEAR FOODS at any and all restaurant locations in the State of California during the applicable

PAGA Period.

100. Based on the acts alleged above, Plaintiffs, on behalf of themselves and others, seek penalties under California Labor Code sections 2698 and 2699 because of Defendants' violations of numerous provisions of the California Labor Code as alleged in this Complaint.

101. Plaintiffs therefore have exhausted all administrative remedies required of them under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants' violations of the Labor Code.

102. California Labor Code section 2699 et seq. imposes penalties upon culpable Defendants for violating the Labor Code.

103. Plaintiffs seek penalties for Defendants' misconduct as alleged herein as permitted by law, but only those penalties that are required to be shared with the LWDA as Plaintiffs is not seeking individual/victim specific relief or underpaid wages for herself or other employees under this specific PAGA cause of action. Plaintiffs have separate causes of action in this Complaint for individual wages but are not seeking wages through the PAGA action.

104. Specifically, Plaintiffs seek penalties under California Labor Code section 2699, for the following:

Violations of California Labor Code sections 201, 202, 203, 204, and/or 204b, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197.1, 1198, 2802, 3700.5 via 2698 and 2699 and any other Labor Codes/Industrial Welfare Commission Orders (4 or 5) violated based on the facts alleged in this Complaint.

105. Pursuant to Labor Code section 2698 et seq., Plaintiffs seek to recover attorney's fees, costs, and civil penalties on behalf of Plaintiffs and other current and former aggrieved employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

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1 Cruz's wife, Plaintiff Mary Meraz, filing a PAGA claim against Defendants on or around June
2 2022.

3 113. As a direct and proximate result of the aforementioned acts and omissions of
4 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
5 loss of income (past and future), loss of employment benefits (past and future), general and
6 compensatory damages (past and future), mental pain and anguish and emotional distress (past
7 and future), and will continue to suffer in the future, in an amount to be proved at trial.

8 114. Moreover, pursuant to Labor Code section 98.6, an employer who violates this
9 section is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee
10 for each violation of this section.

11 115. The foregoing conduct engaged in by Defendants and each of its directors,
12 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
13 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
14 an environment free of retaliation, so as to justify the imposition of punitive damages to punish
15 and set an example of said Defendants.

16 **TWELFTH CAUSE OF ACTION**

17 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5**

18 **(Plaintiff Cruz against All Named Defendants and DOE Defendants, and each of them)**

19 116. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 115, inclusive, of this Complaint as though fully set forth herein.

21 117. At all times material to this Complaint, California Labor Code § 1102.5 was in effect
22 and binding on Defendants. This section requires Defendants to refrain from retaliating against
23 an employee for refusing to participate in an activity that he/she reasonably believes would
24 result in a violation of state or federal statute, or a violation or noncompliance with a state or
25 federal rule or regulation. California Labor Code section 1102.5 also requires Defendants to
26 refrain from retaliating against an employee for disclosing information to a person with
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1 authority over the employee if the employee has reasonable cause to believe that the
2 information discloses a violation of state or federal statute, or a violation of or noncompliance
3 with a local, state, or federal rule or regulation, regardless of whether disclosing the
4 information is part of the employee's job duties.
5

6 118. As discussed above, Plaintiff complained to Defendants about wage and hour
7 violations being committed against him at the workplace. Moreover, Plaintiff Cruz's wife sent
8 a PAGA notice to Defendants on or around June 2022 seeking penalties for labor code
9 violations against hourly, non-exempt employees, including Plaintiff Cruz.

10 119. Defendant MEAR FOODS retaliated against Plaintiff for his whistleblowing
11 conduct, as alleged above, all in violation of Labor Code § 1102.5.

12 120. As a direct and proximate result of the aforementioned acts and omissions of
13 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
14 loss of income (past and future), loss of employment benefits (past and future), general and
15 compensatory damages (past and future), mental pain and anguish and emotional distress (past
16 and future), and will continue to suffer in the future, in an amount to be proved at trial.
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18 121. Plaintiff requests all available relief under Labor Code § 1102.5 including damages
19 and the imposition of civil penalties of \$10,000 for each violation as well as attorneys fees.
20

21 **THIRTEENTH CAUSE OF ACTION**

22 **DISCRIMINATION ON THE BASIS OF MENTAL DISABILITY IN VIOLATION OF**

23 **FEHA**

24 **(Plaintiff Meraz against Defendant MEAR FOODS, INC. and all DOE Defendants)**

25 122. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 121, inclusive, of this Complaint as though fully set forth herein.
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28 123. At all times mentioned herein, the FEHA, Government Code section 12900 et

1 seq., was in full force and effect and binding upon Defendants and each of them.

2 124. Government Code section 12940(a) provides that it is an unlawful employment
3 practice for an employer to discharge a person from employment because of “[r]ace, religious
4 creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
5 genetic information, marital status, sex, age, sexual orientation, or military and veteran status.”

6 125. California Government Code section 12926(m) has established a “broad
7 definition” of disability: disability protections under the Fair Employment and Housing Act
8 (“FEHA”) even extend to “perceived” disabilities. *Id.* Under the law of this state, “working” is
9 a major life activity. *See* section 12926.1(c).

10 126. Plaintiff’s stress and anxiety, which was debilitating, and which limited a major life
11 activity, qualifies as a disability under the FEHA, and Plaintiff was entitled to its protection.

12 127. Defendants knew of Plaintiff’s disability Defendants violated California Government
13 Code section 12940 et. seq. by discriminating against Plaintiff on the basis of her disabilities.

14 128. As a direct and proximate result of the aforementioned acts and omissions of
15 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
16 loss of income (past and future), loss of employment benefits (past and future), general and
17 compensatory damages (past and future), mental pain and anguish and emotional distress (past
18 and future), and will continue to suffer in the future, in an amount to be proved at trial.

19 129. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive,
20 and each of their directors, officers and/or managing agents, constitutes malice, fraud, and
21 oppression and was authorized, ratified, and carried on with a conscious and willful disregard
22 of their workers’ right to work in an environment in which personnel decisions and company
23 policies are made without regard to disability, so as to justify the imposition of punitive
24 damages to punish and set an example of said Defendants.
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1 130.As a proximate result of the foregoing conduct, which violated the provisions of
2 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
3 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

4 **FOURTEENTH CAUSE OF ACTION**

5 **FAILURE TO ACCOMMODATE MENTAL DISABILITY IN VIOLATION OF FEHA**

6 **(Plaintiff Meraz against MEAR FOODS, INC. and all DOE Defendants)**

7 131.Plaintiff Meraz re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 130, inclusive, of this Complaint as though fully set forth herein.

9 132.California Government Code section 12940(p) provides that it is unlawful for an
10 employer to fail to make reasonable accommodation for the known mental disability of an
11 employee.
12

13 133.Defendants knew of Plaintiff Meraz's disabilities as Plaintiff reported it directly to
14 management/ownership, Defendant Mear Manoocheri, in taking medical leave and Plaintiff
15 Cruz personally handed Plaintiff Meraz's medical leave paperwork to Defendant Mear
16 Manoocheri.
17

18 134.Defendants failed to make reasonable accommodation of Plaintiff's mental
19 disabilities of which Defendants were unequivocally aware.

20 135.As a direct and proximate result of the aforementioned acts and omissions of
21 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
22 loss of income (past and future), loss of employment benefits (past and future), general and
23 compensatory damages (past and future), mental pain and anguish and emotional distress (past
24 and future), and will continue to suffer in the future, in an amount to be proved at trial.
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26 136.The foregoing conduct engaged in by Defendants and each of their directors,
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1 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
2 ratified, and carried on with a conscious and willful disregard of their workers' right to receive
3 reasonable accommodations, so as to justify the imposition of punitive damages to punish and
4 set an example of said Defendants.

5 137.As a proximate result of the foregoing conduct, which violated the provisions of
6 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
7 fees and costs in the prosecution of this claim, in an amount to be proven at trial.
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9 **FIFTEENTH CAUSE OF ACTION**

10 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS IN VIOLATION OF FEHA**

11 **(Plaintiff Meraz against Defendant MEAR FOODS, INC. and all DOE Defendants)**

12 138.Plaintiff Meraz re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 137, inclusive, of this Complaint as though fully set forth herein.

14 139.California Government Code section 12940(n) provides that it is unlawful for an
15 employer to fail to engage in a timely, good faith, interactive process with an employee to
16 determine effective accommodations for that employee's disability.
17

18 140.As described above, Defendants knew that Plaintiff suffered from mental
19 disabilities. Defendants failed to engage in any kind of interactive process with Plaintiff in
20 order to determine whether they could provide Plaintiff with reasonable accommodations.
21 Instead, Defendants pursued discriminatory actions against Plaintiff, including terminating
22 Plaintiff's employment due to Plaintiff allegedly quitting without notice.

23 141.As a direct and proximate result of the aforementioned acts and omissions of
24 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
25 loss of income (past and future), loss of employment benefits (past and future), general and
26 compensatory damages (past and future), mental pain and anguish and emotional distress (past
27 and future), and will continue to suffer in the future, in an amount to be proved at trial.
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1 142.The foregoing conduct engaged in by Defendants and each of their directors,
2 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
3 ratified, and carried on with a conscious and willful disregard of their workers' right to engage
4 in the interactive process and receive reasonable accommodations, so as to justify the
5 imposition of punitive damages to punish and set an example of said Defendants.

6 143.As a proximate result of the foregoing conduct, which violated the provisions of
7 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
8 fees and costs in the prosecution of this claim, in an amount to be proven at trial.
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10 **SIXTEENTH CAUSE OF ACTION**

11 **RETALIATION IN VIOLATION OF FEHA**

12 **(Plaintiff Meraz against Defendant MEAR FOODS, INC. and all DOE Defendants)**

13 144.Plaintiff Meraz re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 143, inclusive, of this Complaint as though fully set forth herein.

15 145.At all times herein mentioned, Government Code section 12940 et. seq. was in
16 full force and effect and was binding upon Defendants and each of them. Said statute imposes
17 certain duties upon Defendants concerning discrimination and retaliation against persons, such
18 as Plaintiff, on the basis of disability or on the basis of Plaintiff requesting time off of
19 work/missing time from work due to a disability. Said statutes were intended to prevent the
20 type of injury and damage set forth herein. Plaintiff was, at all times herein mentioned, a
21 member of the class of persons intended to be protected by said statutes. As alleged above,
22 Plaintiff was retaliated against and terminated from her employment as a result of her mental
23 disability and for requesting time off as a result of her mental disability.
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25 146.As a direct and proximate result of Defendants' conduct, Plaintiff has been
26 harmed in that Plaintiff has suffered the loss of wages, salary, and benefits, among other things.
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1 As a result, Plaintiff has suffered such damages in an amount according to proof.

2 147. As a further direct and proximate result of the conduct of Defendants, and each
3 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish
4 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
5 suffered such damages in an amount according to proof.

6 148. In committing the foregoing acts, Defendants have been guilty of oppression,
7 fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to
8 punitive damages in a sum appropriate to punish and make an example out of the foregoing
9 Defendants.
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11 149. The acts of oppression, fraud, and/or malice, were engaged in by employees of
12 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
13 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
14 wrongful conduct for which an award of punitive damages is sought, and/or was personally
15 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
16 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
17 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
18 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
19 California Civil Code section 3294 in a sum appropriate to punish and make an example of
20 each Defendant
21

22 150. FEHA provides for an award of reasonable attorneys' fees and costs incurred by
23 a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
24 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
25 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
26 award of attorneys' fees and costs.
27
28

1 **SEVENTEENTH CAUSE OF ACTION**

2 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION IN VIOLATION**

3 **OF FEHA**

4 **(Plaintiff Meraz against All Named Defendants and all DOE Defendants)**

5 151. Plaintiff Meraz re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 150, inclusive, of this Complaint as though fully set forth herein.

7 152. At all times herein mentioned, FEHA, California Government Code section
8 12940(k), was in full force and effect and was binding on Defendants. According to
9 Government Code § 12940(k), it is an unlawful employment practice for an employer to fail to
10 take all reasonable steps necessary to prevent disability discrimination from occurring.
11

12 153. As described above, Defendants knew that Plaintiff suffered from a mental
13 disability. Defendants failed to engage in any kind of interactive process with Plaintiff in order
14 to determine whether it could provide Plaintiff with reasonable accommodations. Instead,
15 Defendants pursued discriminatory actions against Plaintiff, including terminating Plaintiff's
16 employment.
17

18 154. During the course of Plaintiff's employment, Defendants failed to prevent their
19 employees, including management, from engaging in intentional actions that resulted in
20 Plaintiff being treated less favorably and eventually being terminated because of Plaintiff's
21 protected status (i.e., her mental disability). During the course of Plaintiff's employment,
22 Defendants failed to prevent their employees from engaging in unjustified employment
23 practices against employees in such protected classes. During the course of Plaintiff's
24 employment, Defendants failed to prevent a pattern and practice by its employees of
25 intentional discrimination and retaliation on the basis of mental disability, and/or other
26 protected status and/or protected activity.
27
28

1 155.Plaintiff believes and, on that basis, alleges that her mental disability
2 was a substantial motivating factors in Defendants' employees' discriminating against her and
3 retaliating against her.

4 156.As a direct and proximate result of the aforementioned acts and omissions of
5 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
6 loss of income (past and future), loss of employment benefits (past and future), general and
7 compensatory damages (past and future), mental pain and anguish and emotional distress (past
8 and future), and will continue to suffer in the future, in an amount to be proved at trial.

9
10 157.. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive,
11 and each of their directors, officers and/or managing agents, constitutes malice, fraud, and
12 oppression and was authorized, ratified, and carried on with a conscious and willful disregard
13 of their workers' right to work in an environment in which personnel decisions and company
14 policies are made without regard to disability, so as to justify the imposition of punitive
15 damages to punish and set an example of said Defendants.

16
17 158.As a proximate result of the foregoing conduct, which violated the provisions of
18 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
19 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

20 **EIGHTEENTH CAUSE OF ACTION**

21 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC**
22 **POLICY**

23 **(All Plaintiffs Against Defendant MEAR FOODS, INC. and DOE Defendants)**

24 159.Plaintiffs re-allege and incorporate by reference each and every allegation in
25 paragraphs 1 through 158 inclusive, of this Complaint as though fully set forth herein.

26 160.At all times during her employment with Defendants, Plaintiffs performed their
27 duties with the utmost diligence and competence.
28

1 161.Plaintiffs are informed and believe and thereon allege that Defendants' decision
2 to discriminate against Plaintiff Meraz and retaliate against Plaintiff Meraz and Plaintiff Cruz,
3 as alleged herein, was motivated by Plaintiff Meraz's disabilities as well as Plaintiff Cruz's
4 whistleblowing and Plaintiff Meraz's PAGA notice to Defendants. Plaintiffs are further
5 informed and believe and thereon allege that any other reasons proffered by Defendants were
6 and are pretextual in nature. Defendants intentionally created the aforementioned
7 discrimination and retaliation and failed to reasonably accommodate Plaintiff Meraz's
8 disability, thereby not giving Plaintiff Meraz an opportunity to work in an environment free of
9 discrimination and retaliation and not giving Plaintiff Cruz an opportunity to work in an
10 environment free of retaliation.

11 162.The employment of Plaintiff Meraz was wrongfully terminated on or around
12 June or July 2022 in violation of the fundamental public policy of the State of California with
13 respect to discriminating against an employee on account of her disability
14 as well as denying reasonable accommodations to Plaintiff. Plaintiff was forced to hire an
15 attorney to assist her to end these illegal activities. Said conduct violated statutory and
16 constitutional expressions of public policy including, but not limited to, California Government
17 Code sections 12940 et seq., and the California Constitution, Article 1 section 8.
18

19 163.The employment of Plaintiff Cruz was wrongfully terminated on or around August
20 2022 in violation of the fundamental public policy of the State of California with respect to
21 retaliating against an employee due to complaints of illegal conduct in the workplace. Plaintiff
22 was forced to hire an attorney to assist him to end these illegal activities. Said conduct violated
23 statutory and constitutional expressions of public policy, including, but not limited to,
24 California Labor Code sections 98.6 and 1102.5.

25 164.As set forth above, said actions by Defendants were wrongful and in violation
26 of the fundamental principles of the public policy of the State of California as reflected in its
27 laws, objectives and policies. Said statutes and constitutional expressions of public policy
28 include, but are not limited to, California Government Code sections 12940 et seq., and the

1 California Constitution, Article 1 section 8, and California Labor Code sections 98.6 and
2 1102.5. These laws inure to the benefit of the public at large, and not just the private interests
3 of the employers and employees whom they govern or protect.

4 165. As a direct and proximate result of the aforementioned acts and omissions of
5 Defendants, Plaintiffs suffered general and compensatory damages, including but not limited
6 to, loss of income (past and future), loss of employment benefits (past and future), general and
7 compensatory damages (past and future), mental pain and anguish and emotional distress (past
8 and future), and will continue to suffer in the future, in an amount to be proved at trial.

10 166. The foregoing conduct engaged in by Defendants and each of their directors,
11 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
12 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
13 an environment free of discrimination and retaliation, so as to justify the imposition of punitive
14 damages to punish and set an example of said Defendants.

16 **NINETEENTH CAUSE OF ACTION**

17 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

18 **(California Business and Professions Code Section 17200)**

19 **(Plaintiffs against Defendant MEAR FOODS, INC. and all DOE defendants)**

20 167. Plaintiffs re-allege and incorporate by reference each and every allegation in
21 paragraphs 1 through 165, inclusive, of this Complaint as though fully set forth herein.

23 168. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendant
24 constitutes unfair and unlawful business practices under California Business and
25 Professions Code Section 17200, et seq.

26 169. Defendant's violations of California labor laws and the labor code as well as FEHA,
27 as alleged above constitutes a business practice because it was done repeatedly over a
28 significant period of time in a systematic manner that was detrimental to Plaintiffs and other

1 similarly situated aggrieved employees.

2 170. For the four years preceding the filing of this action, Plaintiffs have suffered damages
3 and request damages and/or restitution of all monies and profits to be disgorged from
4 Defendant in an amount according to proof at time of trial, but in excess of the jurisdiction of
5 this Court.

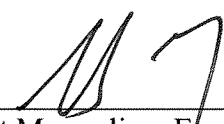
6 WHEREFORE, Plaintiffs pray for Judgment against Defendants, and each of them, as
7 follows:

- 8 1. For compensatory damages including lost past and future wages, regular wages,
9 overtime, and all other sums of money, including employment benefits, together with
10 interest on said amounts, and any other economic injury to Plaintiff, according to proof;
11
- 12 2. For general damages according to proof;
- 13 3. For special and consequential damages to the extent allowed by law;
- 14 4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
15 at trial;
- 16 5. For an award of punitive damages against Defendant MEAR FOODS, INC. according
17 to proof;
- 18 6. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
19 subject to proof at trial;
- 20 7. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
21 proof at trial;
- 22 8. For restitution and disgorgement for all unfair business practices by Defendant MEAR
23 FOODS, INC. against Plaintiff in an amount subject to proof at trial;
- 24 9. For an order enjoining Defendant MEAR FOODS, INC. from further unfair and
25 unlawful business practices in violation of Business and Professions Code Sections
26 17200, et seq.;
- 27 10. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
28 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
11. For one hour of wages due to Plaintiff for each work period of four (4) hours or major

- 1 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 2 12. For maximum civil penalties available under the Labor Code and applicable Wage
- 3 Order against Defendants as described more particularly in the Complaint and
- 4 representative PAGA claim;
- 5 13. For all remedies available to Plaintiff under the applicable Wage Order and the
- 6 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
- 7 liquidated damages, damages, penalties, and waiting time penalties according to proof
- 8 to the extent permitted by law via PAGA;
- 9 14. For the imposition of civil penalties and/or statutory penalties;
- 10 15. For all interest as allowed by law;
- 11 16. For all costs and disbursements incurred in this suit;
- 12 17. Reasonable attorney's fees where available by law, including but not limited to,
- 13 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,
- 14 Labor Code section 1102.5, the Labor Code, FEHA; and/or other applicable laws; and
- 15 18. For such other and further relief as this Court may deem proper.

16 DATED: October 26, 2022

MESSRELIAN LAW INC.

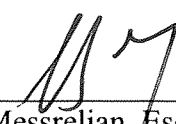
17 By 
18 Harout Messrelian, Esq.
19 Attorneys for Plaintiffs

20 **DEMAND FOR JURY TRIAL**

21 Plaintiffs hereby demand, as a matter of right, a trial by jury in this case.

22 DATED: October 26, 2022

MESSRELIAN LAW INC.

23 By 
24 Harout Messrelian, Esq.
25 Attorneys for Plaintiffs
26
27
28