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on behalf of the State of California and all Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

CRISTANO VEGAR MONROY, on behalf
of the State of California and all Aggrieved
Employees,

Plaintiff,

v.

IL FORNAIO (AMERICA) LLC, a
Delaware Limited Liability Company; and
DOES 1-100, inclusive,

Defendants.

Case No.: **25CV013733**

**PLAINTIFF'S REPRESENTATIVE
COMPLAINT FOR VIOLATION OF
THE PRIVATE ATTORNEYS
GENERAL ACT, CAL. LABOR CODE
SECTIONS 2698, et seq.**

1 Plaintiff, CRISTANO VEGAR MONROY, (“PLAINTIFF”), on behalf of the State of
2 California and all Aggrieved Employees (as defined below), hereby files this Complaint against
3 Defendants IL FORNAIO (AMERICA) LLC, a Delaware Limited Liability Company; and DOES
4 1-100, inclusive. PLAINTIFF is informed and believes and thereon alleges as follows:

5 **INTRODUCTION**

6 1. This is a representative action filed by PLAINTIFF on behalf of all Aggrieved
7 Employees and the State of California against DEFENDANTS, pursuant to California’s Private
8 Attorney General Act, Labor Code section 2698 *et. seq.* (“PAGA”), to recover civil penalties for
9 DEFENDANTS’ violations of the California Labor Code as alleged below.

10 **JURISDICTION AND VENUE**

11 2. This Court has jurisdiction over PLAINTIFF’s claims for penalties pursuant to
12 California statutes, including but not limited to the PAGA, and decisional law and regulations.

13 3. Venue is proper in this judicial district and the County of Sacramento pursuant to
14 California Code of Civil Procedure section 395.5 because DEFENDANTS transact business within
15 this judicial district, DEFENDANTS assigned PLAINTIFF to work in this judicial district, and
16 conduct alleged by PLAINTIFF herein occurred in this judicial district. *See also Crestwood*
17 *Behavioral Health, Inc. v. Superior Court* (2021) 60 Cal.App.5th 1069 (venue in a PAGA action is
18 proper in any county where the defendants committed Labor Code violations against some of its
19 employees). Venue is also proper pursuant to section 393 of the California Code of Civil Procedure
20 because the cause, or some part of the cause, arose in the County of Sacramento.

21 **THE PARTIES**

22 4. PLAINTIFF is, and at all relevant times, was an individual domiciled in the State of
23 California and a citizen of the State of California.

24 5. PLAINTIFF worked for DEFENDANTS in Sacramento County as a non-exempt,
25 hourly-paid, employee from in or around February 2022 through in or around January 2025, working
26 first for DEFENDANTS as a cook, then as a busser, and/or similar job titles and/or positions.

27 6. Defendant, IL FORNAIO (AMERICA) LLC, is a Delaware Limited Liability
28 Company, that at all relevant times was authorized to do business in California and is doing business

1 in California.

2 7. DEFENDANTS own, operate, manage and/or staff its employees to work at the
3 restaurants, bakery cafés, dining establishments, facilities and/or other location(s) in California,
4 including but not limited to, in Beverly Hills, Burlingame, Carmel, Coronado, Corte Madera, Del
5 Mar, Irvine, Manhattan Beach, Mountain View, Palo Alto, Roseville, Sacramento, San Jose, Santa
6 Clara, Walnut Creek, and Woodland Hills, California. DEFENDANTS operate business under
7 including but not limited to, the following name(s): “Il Fornaio,” “Il Fornaio Cucina Italiana.”
8 DEFENDANTS, through its various locations, serve the restaurant and/or hospitality industry.¹

9 8. The true names and capacities of the DOE Defendants sued herein as DOES 1
10 through 100, inclusive, are currently unknown to PLAINTIFF, who therefore sues each such
11 Defendant by said fictitious names. Each of the Defendants designated herein as a DOE is legally
12 responsible for the unlawful acts alleged herein. PLAINTIFF will seek leave of Court to amend this
13 Complaint to reflect the true names and capacities of the Doe Defendants when such identities
14 become known.

15 9. PLAINTIFF is further informed and believes that, at all relevant times, each
16 Defendant was the principal, agent, partner, joint venturer, joint employer, officer, director,
17 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
18 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
19 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
20 of the other Defendants so as to be liable for their conduct with respect to the matters alleged in this
21 complaint. PLAINTIFF is further informed and believes and thereon alleges that each Defendant
22 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
23 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
24 controlled, aided and abetted the conduct of all other Defendants.

25 **JOINT LIABILITY**

26 10. Under California law, the definition of the terms “to employ” are broadly construed
27 under the applicable IWC Wage Order(s) to have three alternative definitions, including: (1) to

28 ¹ See <https://www.ilfornaio.com/locations/>. Last visited on June 9, 2025..

1 exercise control over the wages, hours or working conditions; (2) to suffer or permit to work; or (3)
2 to engage, thereby creating a common law employment relationship. See, *Martinez v. Combs*, 49
3 Cal.4th 35, 64 (2010). One reason that the IWC defined “employer” in terms of exercising control
4 was to reach situations in which multiple entities control different aspects of the employment
5 relationship. Supervision of the work, in the specific sense of exercising control over how services
6 are properly performed, is properly viewed as one of the “working conditions” mentioned in the
7 wage order. *Id.* at 76. A joint employer relationship exists, for example, when one entity (such as a
8 temporary employment agency) hires and pays a worker, and the other entity supervises the work.
9 *Id.* Moreover, the California Court of Appeal recently broadened the test for joint employment in
10 California, applying a less stringent standard to what constitutes sufficient control by a business
11 over its vendor’s employees’ wages and working conditions to render that business liable as a joint
12 employer. See, *Medina v. Equilon Enterprises, LLC*, 68 Cal. App. 5th 868 (2021); “[i]f the putative
13 joint employer instead exercises enough control over the intermediary entity to *indirectly* dictate the
14 wages, hours, or working conditions of the employee, that is a sufficient showing of joint
15 employment,” *Id.* at 875 [emphasis added].

16 11. During PLAINTIFF’s employment by DEFENDANTS, PLAINTIFF and the
17 Aggrieved Employees (defined below) were jointly employed by DEFENDANTS for purposes of
18 the Wage Orders, under the alternative definitions of “to employ” adopted by the California
19 Supreme Court in *Martinez*, supra. As discussed below, these DEFENDANTS (1) exercised control
20 over wages, hours and working conditions of PLAINTIFF and the Aggrieved Employees; (2)
21 suffered or permitted PLAINTIFF and Aggrieved Employees to work for them; and (3) engaged
22 PLAINTIFF and Aggrieved Employees to work for them.

23 12. PLAINTIFF is informed and believes, and thereon alleges that at all relevant times
24 DEFENDANTS operated as a single integrated enterprise with common ownership and centralized
25 human resources. As a result, DEFENDANTS utilized the same unlawful policies and practices
26 across all of their locations/facilities and subjected all of the Aggrieved Employees to these same
27 policies and practices regardless of the location(s) where they worked. Among other things,
28 PLAINTIFF is informed and believes that: (1) there is common ownership in, and financial control,

1 in DEFENDANTS' companies, (2) DEFENDANTS utilize common management, who have control
2 over the day-to-day operations and employment matters, including the power to hire and fire, set
3 schedules, issue employee policies, and determine rates of compensation across its locations in
4 California; (3) DEFENDANTS utilize the same policies and procedures for all California
5 employees, including issuing the same employee handbooks and other form agreements; (4)
6 DEFENDANTS use at least some of the same Human Resources personnel and attorneys to oversee
7 employment matters; and, (6) DEFENDANTS share employees.

8 13. PLAINTIFF is informed and believes, and thereon alleges that at all times relevant
9 to this Complaint, DEFENDANTS were the joint employers of PLAINTIFF and the Aggrieved
10 Employees upon whose behalf PLAINTIFF brings these allegations and causes of action, in that
11 DEFENDANTS, exercised sufficient control over PLAINTIFF and the Aggrieved Employees'
12 wages, hours and working conditions, and/or suffered or permitted PLAINTIFF and the Aggrieved
13 Employees to work so as to be considered the joint employers of PLAINTIFF and the Aggrieved
14 Employees.

15 14. Upon information and belief, PLAINTIFF alleges that DEFENDANTS created a
16 uniform set of policies, practices and/or procedures concerning, inter alia, hourly and overtime pay,
17 time-keeping practices, meal and rest periods, reimbursement of business expenses and other
18 working conditions that were distributed to, and/or applied to PLAINTIFF and the Aggrieved
19 Employees, and further that DEFENDANTS uniformly compensated and controlled the wages of
20 PLAINTIFF and the Aggrieved Employees in a uniform manner. DEFENDANTS collectively
21 represented to PLAINTIFF and the Aggrieved Employees that each was an "at-will" employee of
22 DEFENDANTS, and that DEFENDANTS collectively retained the right to terminate PLAINTIFF's
23 and Aggrieved Employees' employment with or without cause. Upon information and belief,
24 DEFENDANTS further collectively represented to PLAINTIFF and Aggrieved Employees in
25 writing the details of their compensation, and the manner in which they were to take meal and rest
26 periods, the procedures required by DEFENDANTS collectively for recordation of hours worked
27 and the policies applicable to PLAINTIFF and Aggrieved Employees by which DEFENDANTS
28 collectively would evaluate the wage rates of PLAINTIFF and Aggrieved Employees.

15. Thus, DEFENDANTS collectively exercised the right to control the wages, hours and working conditions of PLAINTIFF and Aggrieved Employees. As such, DEFENDANTS collectively held the right to control virtually every aspect of PLAINTIFF's and the Aggrieved Employees' employment, including the instrumentality that resulted in the illegal conduct for which PLAINTIFF seeks relief in this Complaint.

16. By reason of their status as joint employers of PLAINTIFF and Aggrieved Employees, DEFENDANTS are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to all Aggrieved Employees.

PAGA ALLEGATIONS

17. PLAINTIFF brings this action under the PAGA, as a representative action on behalf of the State of California and all Aggrieved Employees, regarding violations of the California Labor Code as set forth herein as to all Aggrieved Employees. Said “Aggrieved Employees” include the following:

All current and former non-exempt employees that worked either directly or via a staffing agency for any one or more DEFENDANTS at any location in California at any time from one year plus 65 days from the filing of the initial Complaint through the present (“PAGA Period”).

18. PLAINTIFF is an “aggrieved employee,” as that term is defined under Labor Code section 2699(c), as PLAINTIFF was employed by DEFENDANTS during the applicable statutory limitations period and suffered all of the Labor Code violations set forth herein. Accordingly, PLAINTIFF seeks to recover on behalf of the State of California, and all Aggrieved Employees, the civil penalties provided by PAGA, plus reasonable attorney's fees and costs. PLAINTIFF has standing to bring a PAGA cause of action on behalf of the State and all Aggrieved Employees, as PLAINTIFF was jointly employed by DEFENDANTS and is affected by all of the alleged violations.

COMPLIANCE WITH PAGA'S NOTIFICATION REQUIREMENTS

19. PLAINTIFF, on April 3, 2025, through counsel, gave written notice by online filing with the California Labor and Workforce Development Agency (“LWDA”) informing it that

1 DEFENDANTS failed to comply with California's labor laws with regard to the allegations alleged
2 in this Complaint ("PAGA Notice"). The PAGA Notice was also sent to DEFENDANTS via
3 certified mail.

4 20. The PAGA Notice outlined PLAINTIFF's claims for violations of the California
5 Labor Code and the applicable wage orders on behalf of the State of California and all Aggrieved
6 Employees.

7 21. The LWDA did not provide notice of its intention to investigate DEFENDANTS'
8 violations after expiration of the 65-day waiting time period, or at any time. To the extent any of the
9 alleged violations were curable, DEFENDANTS failed to cure within the time allotted by PAGA.
10 PLAINTIFF has exhausted the administrative remedies as required by Labor Code section 2699.3.
11 Consequently, PLAINTIFF's right to file the instant lawsuit has duly accrued.

12 22. PLAINTIFF seeks to recover the PAGA civil penalties through a representative
13 action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
14 Cal.4th 969. Therefore, class certification of the PAGA claims is not required.

15 **FACTUAL ALLEGATIONS**

16 23. During the relevant period, PLAINTIFF, and each of the Aggrieved Employees,
17 worked for DEFENDANTS in the State of California. At all times referenced herein,
18 DEFENDANTS exercised control over PLAINTIFF and Aggrieved Employees and suffered and/or
19 permitted them to work.

20 24. PLAINTIFF worked for DEFENDANTS as a non-exempt, hourly-paid employee
21 from in or around February 2022 through in or around January 2025, working first for
22 DEFENDANTS as a cook, then as a busser, and/or similar job titles/positions.

23 25. PLAINTIFF regularly worked at least five (5) to seven (7) hours per day, at times
24 working more than eight (8) hours in a day and/or more than forty (40) hours in a week.

25 26. DEFENDANTS assigned PLAINTIFF to work at its restaurant, dining
26 establishment, and/or facilities located in Sacramento, California, which operates under the name
27 "Il Fornaio" and/or "Il Fornaio Sacramento."

28 27. DEFENDANTS paid PLAINTIFF an hourly rate for time counted by

1 DEFENDANTS as hours worked. At times, DEFENDANTS compensated PLAINTIFF with a base
2 hourly rate of \$16.50. PLAINTIFF and other Aggrieved Employees also earned tips as part of their
3 compensation.

4 28. **Meal Period Violations.** PLAINTIFF and other Aggrieved Employees consistently
5 worked shifts of more than five (5) hours, entitling them to at least one meal period.

6 29. At times, PLAINTIFF and other Aggrieved Employees would not receive legally
7 compliant thirty (30) minute first meal breaks.

8 30. Aggrieved Employees were unable to take timely, off duty, thirty-minute,
9 uninterrupted meal periods, at times being forced to work during meal periods, take short (less than
10 thirty minutes) and/or meal periods during which they were restricted to the premises and/or
11 otherwise not relieved of all duties and DEFENDANTS' control.

12 31. For example, per DEFENDANTS unlawful meal period policies and practices,
13 Aggrieved Employees were forced to take shortened meal periods and/or were restricted to the
14 worksite during purportedly off-duty meal periods, resulting in denied meal periods as well as off-
15 the-clock work.

16 32. For example, DEFENDANTS' written meal period policy in effect during the
17 liability period required Aggrieved Employees to spend time off-the-clock covering
18 DEFENDANTS' company logo(s) and/or removing work clothing, uniform items, such as, but not
19 limited to, aprons, logo-bearing jackets and/or vests, and/or other uniform items in order to leave
20 the premises during any meal periods, thereby requiring Aggrieved Employees to stay on the
21 premises to receive a full thirty (30) minute meal period or spend time removing work clothing,
22 uniforms, and/or covering logos off-the-clock.

23 33. For instance, when working as a busser, per DEFENDANTS' written meal period
24 policy, PLAINTIFF was required to stay on the premises during any meal periods or was required
25 to first clock out for his meal period, then while off-the-clock, spend time removing and bestowing
26 in its designated location an apron, jacket and/or other uniform items before PLAINTIFF could then
27 exit the work site for PLAINTIFF's meal period, resulting in consistently denied meal periods.

28 34. Based on information and belief, at times, Aggrieved Employees were forced to take

1 late meal periods.

2 35. For example, per DEFENDANTS' unlawful meal period policies and practices,
3 Aggrieved Employees were instructed to take their meal periods on or before the end of the fifth
4 hour of work, and as such, at times, took their meal periods no earlier than the end of the fifth hour
5 of work, in violation of California meal periods law.

6 36. For example, DEFENDANTS' written meal period policy in effect during including
7 but not limited to, 2024, states that the employee meal period must be taken "no later than the end
8 of the fifth hour of work," when California law requires first meal periods to be taken *before* the end
9 of the fifth hour of work. As such, DEFENDANTS' meal period policies in effect during the
10 liability period were unlawful, which resulted in late and/or otherwise legally noncompliant meal
11 periods.

12 37. Also, DEFENDANTS' time records for PLAINTIFF show PLAINTIFF worked
13 shifts longer than five (5) hours on including but not limited to the following dates without clocking
14 out for any meal period at all: 5/24/24, 5/25/24, 5/26/24, 5/29/24, 6/13/24, 6/15/24, 7/12/24, 7/13/24,
15 8/4/24, 8/24/24, 10/19/24, 10/24/24, 10/27/24, 11/8/24, 11/10/24, 12/12/24, 12/21/24, and 1/4/25.

16 38. Also, based on information and belief, at times, DEFENDANTS required Aggrieved
17 Employees to complete off-the-clock work prior to their scheduled shift time which DEFENDANTS
18 failed to take into account when scheduling meal periods for Aggrieved Employees, which resulted
19 in denied meal periods.

20 39. For example, based on information and belief, DEFENDANTS prohibited
21 PLAINTIFF from taking meal periods including but not limited to when working shifts between
22 five (5) and six (6) hours long, however, DEFENDANTS' time records for PLAINTIFF show shift-
23 hour totals very close to the sixth hour mark on including but not limited to the following dates
24 during which PLAINTIFF did not clock out for a meal period: 5.98 on 11/23/24; 5.93 on 11/17/24;
25 5.9 on 8/4/24 and 5.77 on 8/24/24, among many other dates.

26 40. Based on information and belief, DEFENDANTS denied PLAINTIFF owed meals
27 on including, but not limited to, days on which time records for PLAINTIFF show shifts
28 approximately five (5) to ten (10) or more minutes shy of the sixth hour when taking into account

1 that DEFENDANTS regularly required PLAINTIFF to complete off-the-clock work, as described
2 herein.

3 41. As described herein, DEFENDANTS implemented policies and/or practices that
4 failed to relieve Aggrieved Employees of all duties and DEFENDANTS' control during unpaid meal
5 periods.

6 42. For example, as described herein, DEFENDANTS implemented policies and
7 practices that required Aggrieved Employees to remain on the worksite premises during unpaid meal
8 periods and/or that required Aggrieved Employees to cut their unpaid meal periods short to complete
9 work tasks (e.g., doffing uniforms/work clothing), and as such, Aggrieved Employees were not
10 relieved of all duties and DEFENDANTS' control during unpaid meal periods, in violation of
11 California meal period law.

12 43. Based on information and belief, DEFENDANTS had actual and/or constructive
13 knowledge that their policies and practices resulted in the denial of uninterrupted meal periods
14 which were free of DEFENDANTS' control owed to PLAINTIFF and other Aggrieved Employees,
15 in violation of California's meal period laws.

16 44. DEFENDANTS failed to pay PLAINTIFF and other Aggrieved Employees, an
17 additional hour of wages at their respective regular rates of compensation for each workday a lawful
18 meal period was not provided.

19 45. **Rest Period Violations.** DEFENDANTS did not properly authorize and permit
20 PLAINTIFF and other Aggrieved Employees to take legally compliant rest periods at a rate of every
21 four (4) hours worked or major fraction thereof, that insofar as practicable, were in the middle of
22 the work period, as required by law.

23 46. For example, DEFENDANTS did not properly authorize and permit PLAINTIFF
24 and other Aggrieved Employees to take legally compliant rest periods at a rate of every four (4)
25 hours worked or major fraction thereof, that insofar as practicable, were in the middle of the work
26 period, as required by law.

27 47. By way of example, PLAINTIFF was often required to work during PLAINTIFF's
28 owed rest periods due to the need to complete assigned job duties.

1 48. Based on information and belief, Aggrieved Employees' rest periods were
2 interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and
3 constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring
4 Aggrieved Employees to skip rest breaks completely or otherwise take non-compliant rest periods.

5 49. DEFENDANTS implemented policies and/or practices that failed to relieve
6 PLAINTIFF and other Aggrieved Employees of all duties and DEFENDANTS' control during rest
7 periods.

8 50. Furthermore, DEFENDANTS failed to pay a rest period premium at Aggrieved
9 Employees' respective regular rates of pay for each day in which they experienced a
10 missed/unlawful rest period in violation of California law.

11 51. For example, DEFENDANTS wage statements issued to PLAINTIFF do not show
12 the payment of a single rest period premium.

13 52. **Unpaid Minimum and Overtime Wages.** DEFENDANTS failed to compensate
14 PLAINTIFF and other Aggrieved Employees for all hours worked, resulting in the underpayment
15 of minimum and overtime wages.

16 53. Aggrieved Employees were not paid for all hours worked due to DEFENDANTS'
17 mandated off-the clock work policies and/or practices.

18 54. For example, as described herein, per DEFENDANTS' policies and practices,
19 PLAINTIFF and other Aggrieved Employees had to spend time during unpaid meal periods
20 covering DEFENDANTS' logo and/or removing work clothing, uniform items, such as, but not
21 limited to, aprons and/or vests, resulting in DEFENDANTS' failure to compensate PLAINTIFF and
22 other Aggrieved Employees for all hours worked and the underpayment of wages owed to
23 PLAINTIFF.

24 55. DEFENDANTS required, suffered and/or permitted PLAINTIFF and other
25 Aggrieved Employees to complete work tasks prior to clocking in for the start of their shifts, during
26 unpaid meal periods, and/or after clocking out for the end of their shifts, resulting in
27 DEFENDANTS' failure to compensate PLAINTIFF and other Aggrieved Employees for all hours
28 worked and the underpayment of wages owed to PLAINTIFF and other Aggrieved Employees.

1 56. For example, per DEFENDANTS’ policies and practices, PLAINTIFF and other
2 Aggrieved Employees were required to be dressed and at their assigned workstations at the start of
3 a scheduled shift, thereby forcing PLAINTIFF and other Aggrieved Employees to don work clothing
4 and uniforms and/or complete other work tasks prior to their scheduled shift and/or prior to clocking
5 in/signing in, resulting in pre-shift off-the-clock work, DEFENDANTS failure to compensate
6 PLAINTIFF and other Aggrieved Employees for all hours worked and the underpayment of wages
7 owed.

8 57. To this end, DEFENDANTS’ written “Clocking in/out” policy in effect during the
9 liability period states employees “are to be dressed and ready for work *before* clocking in [emphasis
10 added].” While DEFENDANTS’ policy provides for “kitchen staff” to don on the clock,
11 DEFENDANTS’ policy fails to give the same instruction to other positions, including but not
12 limited to, Aggrieved Employees working as bakers, bartenders, bussers, drivers (catering), host
13 staff, retail, and servers.

14 58. As such, Aggrieved Employees working as including but not limited to, bakers,
15 bartenders, bussers, drivers (catering), host staff, retail, and/or servers, such as, but not limited to,
16 PLAINTIFF who worked as a busser, were consistently required to complete pre-shift of the-clock
17 work, including but not limited to, donning DEFENDANTS’ required work clothing and/or
18 uniforms, resulting in DEFENDANTS’ failure to compensate these Aggrieved Employees for all
19 hours worked and the underpayment of wages owed to PLAINTIFF and other Aggrieved
20 Employees.

21 59. Based on information and belief, Aggrieved Employees working as including but not
22 limited to, bakers, bartenders, bussers, drivers (catering), host staff, retail, and servers were also
23 required to don and doff work clothing and/or uniforms and/or complete other work tasks after
24 clocking out for the end of their shifts and during unpaid meal periods, resulting in additional unpaid
25 wages owed to Aggrieved Employees.

26 60. Based on information and belief, at times, DEFENDANTS failed to pay Aggrieved
27 Employees all owed reporting time pay wages and/or failed to pay split shift compensation
28 whenever their work schedules were interrupted by non-paid non-working periods established by

1 DEFENDANTS, which resulted in a violation of the applicable Wage Order and DEFENDANTS'
2 failure to pay all owed minimum wages to Aggrieved Employees.

3 61. Based on information and belief, DEFENDANTS failed to compensate Aggrieved
4 Employees for all time spent completing orientation, policy questionnaires, and/or time spent
5 reviewing various documents, safety guidelines and/or policies provided by DEFENDANTS.

6 62. As described herein, DEFENDANTS did not compensate Aggrieved Employees for
7 all time spent donning and/or doffing personal protective equipment and/or uniforms during meal
8 periods, before the start of a scheduled shift, and/or after completing a scheduled shift, resulting in
9 the underpayment of wages owed to Aggrieved Employees.

10 63. DEFENDANTS failed and continue to fail to pay the lawful premium wage rate for
11 all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

12 64. Based on information and belief, DEFENDANTS had actual and/or constructive
13 knowledge that its off-the-clock work resulted in the underpayment of minimum wages and
14 overtime wages owed to Aggrieved Employees, in violation of California's minimum and overtime
15 wage laws.

16 65. Based on information and belief, DEFENDANTS failed to incorporate all non-
17 discretionary remuneration, including but not limited to, shift differential pay, bonus pay/incentive
18 pay, multiple base rates of pay and/or other non-discretionary pay into the regular rate of pay used
19 to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime
20 wages owed to PLAINTIFF and other Aggrieved Employees.

21 66. **Inaccurate Wage Statements.** During the relevant period, DEFENDANTS failed to
22 provide PLAINTIFF and other Aggrieved Employees with accurate wage statements that complied
23 with Labor Code section 226. As DEFENDANTS failed to provide PLAINTIFF and Aggrieved
24 Employees with meal and rest periods that complied with Labor section 226.7, the wage statements
25 DEFENDANTS issued to PLAINTIFF and Aggrieved Employees failed and continue to fail to
26 correctly set forth the gross wages earned, the total hours worked, the net wages earned, and all
27 applicable hourly rates in effect during the pay period and the corresponding number of hours
28 worked at each hourly rate by the employee.

1 67. DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved Employees
2 that also failed to indicate the earned gross and net wages earned during the pay period, the correct
3 applicable rates of pay for all hours worked, and the total hours worked by PLAINTIFF and
4 Aggrieved Employees (by virtue of off-the-clock work policies and practices) which results in a
5 violation of Labor Code section 226(a).

6 68. Based on information and belief, wage statements issued by DEFENDANTS failed
7 to list all applicable hourly rates in effect during the pay period and the corresponding number of
8 hours worked at each hourly rate by the employee, in violation of including but not limited to, Labor
9 Code section 226(a)(9).

10 69. As a result, DEFENDANTS issued wage statements to PLAINTIFF and Aggrieved
11 Employees that were not accurate and did not include all of the statutorily required information. As
12 such, DEFENDANTS violated Labor Code section 226.

13 70. **Failure to Timely Pay All Wages Upon Separation of Employment.**
14 DEFENDANTS failed to timely pay Aggrieved Employees all wages that were due and owing upon
15 discharge of employment. DEFENDANTS untimely provide final wages to Aggrieved Employees
16 without regard to the timing requirements of Labor Code sections 201-202.

17 71. Upon separation of employment, Aggrieved Employees' final paychecks were not
18 timely provided, were not timely provided with all paid time off and/or did not include all wages
19 owed as they were devoid of, including but not limited to, all owed minimum wages, overtime
20 wages, premium wages and/or paid time off wages at the properly accrued rates.

21 72. For example, upon separation of employment, DEFENDANTS failed to timely
22 provide PLAINTIFF with a final paycheck containing all owed wages, including without limitation,
23 all owed minimum wages, overtime wages, premium wages, and/or paid time off at the properly
24 accrued rates. For example, DEFENDANTS' personnel file for PLAINTIFF shows PLAINTIFF
25 was terminated on or around January 11, 2025, yet DEFENDANTS' final paycheck for PLAINTIFF
26 is dated January 17, 2025 and is devoid of all wages owed including without limitation, all owed
27 minimum wages, overtime wages, premium wages, and/or paid time off at the properly accrued
28 rates.

73. Thus, PLAINTIFF is entitled to penalties under Labor Code section 203.

74. These violations subject DEFENDANTS to civil penalties under Labor Code section 203, 210, and/or 256.

75. **Unreimbursed Business Expenses.** DEFENDANTS required PLAINTIFF and Aggrieved Employees to incur business expenses as a direct consequence of the performance of their job duties without providing reimbursement, in violation of Labor Code section 2802.

76. DEFENDANTS shifted the costs of doing business onto Aggrieved Employees by requiring them to pay for their business expenses, including but not limited to, uniforms/work clothing/work shoes/personal protective/safety gear/hand tools/equipment, the use of Aggrieved Employees and/or personal cell phones/mobile devices for work-related purposes.

77. For example, based on information and belief, DEFENDANTS required PLAINTIFF and other Aggrieved Employees to supply their own slip-resistant shoes and/or other uniforms, work clothing, work shoes, protective/safety gear, however, DEFENDANTS failed to reimburse PLAINTIFF and other Aggrieved Employees for all business expenses they incurred in connection with being required to purchase and/or maintain DEFENDANTS' required uniforms, work clothing, work shoes, protective/safety gear.

78. For example, DEFENDANTS' wage statements issued to PLAINTIFF do not show any reimbursement for business expenses.

79. DEFENDANTS' failure to provide Aggrieved Employees with full reimbursement for all reasonable expenses associated with carrying out their duties required that Aggrieved Employees subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

80. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS engaged in these same herein described unlawful practices, which led to violations of the California Labor Code as further alleged below, and that DEFENDANTS applied these same herein described unlawful practices to all of its employees that it applied to PLAINTIFF.

FIRST CAUSE OF ACTION
VIOLATION OF PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE SECTIONS
2698, *ET SEQ.*

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1 their meal periods due to the nature and constraints of their job duties, and/or commentary from
2 supervisors pressuring them to take non-compliant meal periods or skip meal periods completely.

3 87. Also, DEFENDANTS implemented policies and practices that failed to relieve
4 Aggrieved Employees of all duties and DEFENDANTS' control during meal periods, in violation
5 of California meal period law.

6 88. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS had
7 actual and/or constructive knowledge that their unlawful policies and practices resulted in the denial
8 of compliant meal periods in violation of California's meal period laws.

9 89. DEFENDANTS also failed to pay all owed meal period premiums as the Aggrieved
10 Employees' respective regular rates of pay for each missed and/or otherwise legally noncompliant
11 meal period.

12 90. These unlawful meal period policies and practices result in violations of Labor Code
13 sections 226.7, 512, and 1198-1199, and all applicable wage orders, § 11. These violations subject
14 DEFENDANTS to civil penalties under Labor Code §§ 558, 558.1 and 2699, and all applicable
15 Wage Orders, § 20. These practices result in further violations such as violations of Labor Code §
16 1174 as discussed above, 1198-1199, 226.6 and other violations discussed below.

17 **Rest Period Violations**

18 91. Labor Code section 226.7 and all applicable IWC Wage Orders require an employer
19 to authorize or permit an employee to take a rest period of ten (10) net minutes for every four hours
20 worked or major fraction thereof. Such rest periods must be in the middle of the four-hour period
21 "insofar as practicable." In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012),
22 the California Supreme Court held that employees are entitled to a 10-minute paid rest period for
23 shifts from 3 ½ to 6 hours in a length, two 10-minute rest periods for shifts more than 6 hours up to
24 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at
25 1029). The rest period requirement obligates employers to permit and authorize employees to take
26 off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control
27 over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th
28 257. If the employer fails to provide any required rest period, the employer must pay the employee

1 one hour of pay at the employee's regular rate of compensation for each workday the employer did
2 not provide at least one legally required rest period, pursuant to Labor Code section 226.7, and
3 applicable IWC Wage Order, §12(B).

4 92. Moreover, under California law rest periods must be a "net" ten minutes in a suitable
5 rest area. *Id.* at 268 (relying on January 3, 1986 and February 22, 2002 Division of Labor Standards
6 Enforcement (DLSE) Letters wherein the DLSE ruled that the net ten-minute language for rest
7 periods means ten minutes of time in a rest area and cannot include time it takes to get to and from
8 the rest area). The employer must show that it clearly articulates the right to a net ten minutes,
9 which means it must clearly communicate what "net" ten minutes means (i.e., regardless of what
10 happens along the way to and from a rest area, employees are entitled to a full ten minutes of rest in
11 the rest area). *Id.*; see also, *Bufile v. Dollar Fin. Grp., Inc.*, (2008) 162 Cal. App. 4th 1193, 1199 (the
12 "onus is on the employer to clearly communicate the authorization and permission [to take rest
13 periods] to its employees.").

14 93. PLAINTIFF and the Aggrieved Employees were not allowed to take legally
15 compliant, timely 10-minute rest periods for every four (4) hours worked or major fraction thereof.
16 As explained above, rest periods were interrupted, cut short, on duty, and/or otherwise subject to
17 DEFENDANTS' control due to the nature and constraints of Aggrieved Employees' job duties,
18 understaffing, and/or commentary from supervisors pressuring PLAINTIFF and Aggrieved
19 Employees to skip rest periods completely or otherwise take non-compliant rest periods.

20 94. DEFENDANTS implemented policies and/or practices that failed to relieve
21 PLAINTIFF and other Aggrieved Employees of all duties and employer control during rest periods.
22 Aggrieved Employees were pressured to complete their work duties according to a designated
23 schedule such that rest periods were only taken once tasks were completed, and/or as time permitted.

24 95. As a result, PLAINTIFF and Aggrieved Employees did not receive legally compliant
25 first meal periods as required by California law.

26 96. Moreover, DEFENDANTS failed to pay a rest period premium to PLAINTIFF and
27 other Aggrieved Employees for each workday in which there was a missed or otherwise unlawful
28 rest period. Based on further information and belief, when a rest premium was paid, DEFENDANTS

1 failed to include non-discretionary compensation including but not limited to, bonuses, shift
2 differential pay, and/or other non-discretionary compensation into the regular rate of compensation
3 for purposes of determining the owed rest period premium.

4 97. As such, DEFENDANTS violated Labor Code sections 226.7, and 1198-1199, and
5 all applicable IWC Wage Orders, §12. These violations subject DEFENDANTS to civil penalties
6 under Labor Code §§ 558 and 2699, and all applicable Wage Orders, §20.

7 **Minimum and Overtime Wage Violations**

8 98. California law provides that employees in California must be paid for all hours
9 worked, up to forty (40) hour per week or eight (8) hours per day, at a regular rate that is no less
10 than the mandated minimum wage. *See* Labor Code section 1197 and the applicable Wage Order.
11 The minimum wage standard applies to each hour employees worked for which they were not paid.
12 Therefore, an employer's failure to pay for any particular hour worked by an employee is unlawful
13 even if averaging an employee's total pay over all hours worked, paid or not, results in an average
14 hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

15 99. California law also provides that employees in California must be paid overtime,
16 equal to 1.5 times the employee's regular rate of pay for all hours worked in excess of 40 hours per
17 week or 8 hours per day. *See* Labor Code 510 and the applicable Wage Order section 3. Employers
18 must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond
19 twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh
20 consecutive day of work in a work week. *Ibid.*

21 100. As explained above, DEFENDANTS violated California's minimum and overtime
22 wage laws by failing to compensate PLAINTIFF and the Aggrieved Employees for all hours worked
23 by virtue of, among other things, DEFENDANTS' off-the-clock work policies and practices and
24 failure to relieve PLAINTIFF and other Aggrieved Employees of all duties and DEFENDANTS'
25 control during meal periods as described above which resulted in unpaid minimum and overtime
26 wages.

27 101. DEFENDANTS had and continue to have a policy of failing to pay PLAINTIFF and
28 Aggrieved Employees for all hours worked.

1 102. Based on information and belief, DEFENDANTS had actual or constructive
2 knowledge that off-the-clock work policies and practices / other unlawful policies and practices
3 resulted in the underpayment of minimum and overtime wages owed to PLAINTIFF and other
4 Aggrieved Employees.

5 103. Based on information and belief, DEFENDANTS failed and continue to fail to pay
6 a premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours
7 in a week.

8 104. Based on information and belief, DEFENDANTS further violated California's
9 overtime wage laws by failing to incorporate all non-discretionary compensation, including but not
10 limited to, non-discretionary bonus compensation, shift differentials, and/or other non-discretionary
11 compensation into the regular rate of pay used to calculate the overtime rate of pay. Failing to
12 include non-discretionary compensation into the regular rate of pay resulted in a miscalculation of
13 the overtime wage rate, resulting in the underpayment of overtime wages owed to PLAINTIFF and
14 other Aggrieved Employees.

15 105. This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1,
16 1194, 1197, 1198-1199, and all applicable Wage Orders. These violations subject DEFENDANTS
17 to civil penalties under Labor Code sections 218.5, 558, 558.1, 1197.1, 2699, and all applicable IWC
18 Wage Orders, section 20.

19 **Untimely Payment of Final Wages**

20 106. California Labor Code section 201(a) provides, in relevant part, that "[i]f an
21 employer discharges an employee, the wages earned and unpaid at the time of discharge are due and
22 payable immediately." California Labor Code section 202(a) provides, in relevant part, that "[i]f an
23 employee not having a written contract for a definite period quits his or her employment, his or her
24 wages shall become due and payable not later than 72 hours thereafter, unless the employee has
25 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled
26 to his or her wages at the time of quitting."

27 107. Pursuant to Labor Code section 203, an employer that willfully fails to pay wages
28 due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty

1 equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid.
2 Case law clarifies this 30-day waiting time penalty is recoverable under the PAGA via Labor Code
3 section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also,
4 *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

5 108. As explained herein, DEFENDANTS failed and continue to fail to timely pay final
6 wages to PLAINTIFF and Aggrieved Employees upon discharge/separation of employment in
7 violation of Labor Code section 201-202. Also, final paychecks did not include all wages owed as
8 they are devoid of, including but not limited to, all owed minimum wages, overtime wages, premium
9 wages, and/or paid time off wages at the properly accrued rates.

10 109. As a result, DEFENDANTS violated Labor Code sections 201, 202, and 203. These
11 violations subject DEFENDANTS to civil penalties under Labor Code sections 203, 210, and/or
12 256.

13 **Business Expense Violations**

14 110. California law requires employers to indemnify their employees for all necessary
15 expenditures incurred by the employee in direct consequence of the discharge of their duties or of
16 their obedience to the directions of the employer. See Cal. Lab. Code s. 2802 and all applicable
17 Wage Orders section 9(b). Furthermore, “for purposes of [section 2802], the term ‘necessary
18 expenditure or losses’ shall include all reasonable costs, including, but not limited to, attorneys’ fees
19 incurred by the employee enforcing the rights granted by this section.”

20 111. Among other things, under California law, when employees must use their personal
21 cellphones for work-related purposes, the employer must reimburse them for a reasonable
22 percentage of their cell phone bills. See *Cochran v. Schwan’s Home Services, Inc.* (2014) 228
23 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was
24 required to use their personal cellphone for work-related purposes and not reimbursed for the use.
25 *Id.* 1144-1145.

26 112. Further, “any contract or agreement, express or implied, made by any employee to
27 waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive
28 any employee or his personal representative of any right or remedy to which he is entitled to under

1 the laws of this State.” See Cal. Lab. Code section 2804.

2 113. As described above, PLAINTIFF and the Aggrieved Employees were improperly
3 required to pay for business expenses that are legally the responsibility of the employer.

4 114. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
5 full reimbursement for all reasonable expenses associated with carrying out their duties required
6 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
7 expenses in violation of Labor Code section 2802.

8 115. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and other Aggrieved
9 Employees have suffered injury in that they were not completely reimbursed as mandated by
10 California law.

11 116. DEFENDANTS’ failure to provide PLAINTIFF and the Aggrieved Employees with
12 full reimbursement for all reasonable expenses associated with carrying out their duties required
13 that PLAINTIFF and the Aggrieved Employees subsidize and/or carry the burden of business
14 expenses in violation of Labor Code section 2802.

15 117. As a result of DEFENDANTS’ unlawful conduct, PLAINTIFF and the Aggrieved
16 Employees have suffered injury in that they were not completely reimbursed as mandated by
17 California law.

18 118. Despite being aware of these business expenses, DEFENDANTS failed to reimburse
19 PLAINTIFF and other Aggrieved Employees for such expenses in violation of California Labor
20 Code § 2802. In turn, there constitutes a PAGA violation based on violations of California Labor
21 Code § 2802 and the applicable Wage Order.

22 **Wage Statement Violations**

23 119. California law requires every employer semi-monthly or at the time of each payment
24 of wages to furnish its employees with an accurate itemized wage statement in writing that contains
25 the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of
26 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
27 (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee
28 is paid; (7) the name of the employee and only the last four digits of his or her social security number

1 or an employee identification number other than a social security number; (8) the name and address
2 of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay
3 period and the corresponding number of hours worked at each hourly rate. Lab. Code § 226.

4 120. As DEFENDANTS failed to provide PLAINTIFF and other Aggrieved Employees
5 with meal and rest periods that complied with Labor Code section 226.7, the wage statements
6 DEFENDANTS issued to PLAINTIFF and other Aggrieved Employees failed and continue to fail
7 to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b)
8 the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net
9 wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in
10 effect during the pay period and the corresponding number of hours worked at each hourly rate by
11 the employee, in violation of Labor Code section 226(a)(9).

12 121. Moreover, due to violations detailed above, including but not limited to,
13 DEFENDANTS' failure to pay regular and overtime wages for all hours worked and failure to
14 provide meal and rest break premiums, DEFENDANTS have violated California Labor Code § 226
15 by willfully failing to furnish PLAINTIFF and other Aggrieved Employees with accurate, itemized
16 wage statements that listed the gross and net wages earned and the correct applicable rates of pay
17 for all hours worked. Based on information and belief, DEFENDANTS failed to incorporate all
18 forms of non-discretionary compensation earned during the pay period into the regular rate of pay
19 for purposes of calculating the owed overtime rate, and as such, failed to display the proper overtime
20 rate(s) for each hour of overtime worked by PLAINTIFF and other Aggrieved Employees.

21 122. As explained above, wage statements issued by DEFENDANTS failed to list the
22 "total hours worked" by PLAINTIFF and Aggrieved Employees (by virtue of off-the-clock work
23 policies and practices described above), which results in a violation of Labor Code section 226(a).
24 Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor
25 Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

26 123. Also, wage statements issued by DEFENDANTS failed to list all applicable hourly
27 rates in effect during the pay period and the corresponding number of hours worked at each hourly
28 rate by the employee, in violation of, including but not limited to, Labor Code section 226(a)(9).

1 124. DEFENDANTS' failure to accurately list all hours worked on all wage statements
2 caused confusion to PLAINTIFF and caused and continues to cause confusion to other Aggrieved
3 Employees over whether they received all wages owed to them.

4 125. As a result, PLAINTIFF and other Aggrieved Employees have suffered injury as
5 they could not easily determine whether they received all wages owed to them and whether they
6 were paid for all hours worked.

7 126. DEFENDANTS knowingly and intentionally failed to provide PLAINTIFF and
8 Aggrieved Employees with accurate, itemized wage statements.

9 127. As a result of DEFENDANTS' unlawful conduct, PLAINTIFF and Aggrieved
10 Employees have suffered injury. The absence of accurate information on their wage statements has
11 prevented earlier challenges to DEFENDANTS' unlawful pay practices, will require discovery and
12 mathematical computations to determine the amount of wages owed, and will cause difficulty and
13 expense in attempting to reconstruct time and pay records. DEFENDANTS' conduct led to the
14 submission of inaccurate information about wages and amounts deducted from wages to state and
15 federal government agencies. As a result, PLAINTIFF and Aggrieved Employees are required to
16 participate in this lawsuit and create more difficulty and expense from having to reconstruct time
17 and pay records than if DEFENDANT had complied with its legal obligations.

18 128. These violations subject DEFENDANTS to civil penalties under Labor Code § 226.
19 Each violation results in a *separate* civil penalty, for each Aggrieved Employee, for each pay period
20 during which the statute provisions were violated. ²

21 129. Under the provisions of PAGA and the above mentioned Labor Code sections,
22 including but not limited to Labor Code sections 201-203, 226, 226.7, 256, 432, 510, 512, 558,
23 558.1, 1194, 1197, 1197.1, 2699, 2699.3, 2802, and all applicable Wage Orders as well as all
24 interpretations of these laws by California Courts and administrative bodies, as well as any other
25 law that is enforceable through PAGA, DEFENDANTS are liable for the following penalties:

26 a. All statutorily-specified penalties recoverable under PAGA as enumerated in the
27 relevant California Labor Code provisions listed herein only if permitted by the PAGA statute,

28 ² Labor Code § 226.3 (establishing that the civil penalty is ~~24~~ per employee per violation”).

pursuant to Labor Code section 2699(a); and

b. Default PAGA penalties for any violation of the enumerated list of Labor Code violations without a civil penalty recoverable under the PAGA, all in the default amounts provided by Labor Code section 2699(f).

130. Pursuant to Labor Code section 2699(g), and/or any and all other applicable laws, PLAINTIFF is entitled to recover civil penalties, costs, and attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for relief and judgment as follows on behalf of the State of California, and all Aggrieved Employees:

1. For civil penalties under Labor Code Section 2699;
2. For an order temporarily, preliminarily and permanently enjoining and restraining DEFENDANTS from engaging in similar unlawful conduct as set forth herein;
3. For reasonable attorney's fees and costs of suit; and
4. For such other and further relief that the Court deems just and proper.

Dated: June 10, 2025

CROSNER LEGAL, PC

By:

Zuk

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Brandon Brouillette, Esq.

Zachary M. Crosner, Esq.

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