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Clerk of the Superior Court
By R. Stille ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

IDANIA SOBERANIS, Individually, and On Behalf of All Others Similarly Situated,

Plaintiff,

v.

SD POLLO, INC., a California Corporation; and DOES 1 through 100, Inclusive,

Defendants.

Case No. 25CU035877C

FIRST AMENDED COMPLAINT

1. **Failure To Pay For All Hours Worked [Lab. Code §§ 1194, 1197, 1198, And 1199];**
2. **Failure To Pay Overtime Compensation [Lab. Code § 510];**
3. **Failure To Provide Meal Periods [Lab. Code §§ 226.7 and 512];**
4. **Failure To Authorize and Permit Rest Periods [Lab. Code § 226.7];**
5. **Failure to Indemnify for Business Expenses [Lab. Code § 2802];**
6. **Failure To Furnish Complete and Accurate Wage Statements [Lab. Code § 226(a)];**
7. **Failure To Timely Pay Wages Upon Termination Or Resignation [Lab. Code §§ 201, 202, And 203];**
8. **Unfair Business Practices [Bus. & Prof. Code §§ 17200, *Et Seq*.]; and**
9. **Violation of the Private Attorneys General Act of 2004 (Lab. Code §§ 2698, *Et Seq*.).**

DEMAND FOR JURY TRIAL

Plaintiff IDANIA SOBERANIS ("Plaintiff"), an individual, on behalf of herself and all others similarly situated, hereby alleges the following facts and claims against Defendant SD POLLO, INC. ("SDPI") and DOES 1 through 100, inclusive (collectively "Defendants"), and respectfully requests a trial by jury of all issues and causes of action so triable:

I. <u>INTRODUCTION</u>

1. This class action and representative action complaint challenges Defendants' past and ongoing unlawful employment practices and policies on behalf of Plaintiff, aggrieved employees, and similarly situated current and former non-exempt employees of Defendants in California, whose rights Defendants violated and continue to violate under California laws.

2. Specifically, with regard to Plaintiff and similarly situated current and former non-exempt employees, Defendants have uniformly and systematically:

a. Failed to pay all wages owed in violation of Labor Code sections 1194 and 1197 and Section 4 of the IWC Wage Order(s);

b. Failed and continue to fail to pay all overtime compensation owed for time worked in excess of either eight hours in one work day or forty hours in one work week in violation of Labor Code section 510 and Section 3 of the applicable IWC Wage Order(s);

c. Failed and continue to fail to provide meal periods in violation of Labor Code sections 226.7 and 512 and Section 11 of the IWC Wage Order(s);

d. Failed and continue to fail to authorize and permit all paid rest periods in violation of Labor Code section 226.7 and Section 12 of the IWC Wage Order(s);

e. Failed and continue to fail to indemnify for business expenses in violation of Labor Code section 2802;

f. Failed and continue to fail to furnish complete and accurate itemized wage statements in violation of Labor Code section 226, subdivision (a);

g. With regard to former non-exempt employees only, willfully failed and continue to fail to pay, without abatement or reduction, all final wages owed in

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accordance with Labor Code sections 201 and 202, in violation of Labor Code section 203; and

h. Committed and continue to commit unfair business practices in violation of California Business & Professions Code section 17200, *et seq*.

3. The acts complained of herein occurred, occur and will occur, at least in part, within the time period from four (4) years preceding the filing of the original Complaint herein, up to and through the time of trial for this matter, although this should not automatically be considered the statute of limitations for any cause of action herein.

4. As a result of the foregoing, Plaintiff seeks monetary damages, civil penalties, injunctive relief, restitution, reasonable attorneys' fees, costs, and interest.

5. On May 12, 2025, Plaintiff submitted notice to the California Labor and Workforce Development Agency ("LWDA"), identifying Defendants' alleged violations of California's Labor Code together with facts and theories supporting the alleged violation, pursuant to Labor Code 2699.3. Because the LWDA did not respond with advisement of its intent to investigate the alleged violations within the requisite time, Plaintiff hereby files this First Amended Complaint to allege a representative action claim pursuant to the California Private Attorneys General Act of 2004 (Lab. Code § 2698 *et seq.*) on behalf of the LWDA for Defendants' aggrieved employees. PAGA permits an aggrieved employee to bring a lawsuit on behalf of herself and other current and former non-exempt employees ("aggrieved employees") to recover civil penalties for an employer's violation of the California Labor Code.

II. PARTIES

6. Plaintiff IDANIA SOBERANIS is an individual over the age of eighteen (18), and is now and/or at all times mentioned in this Complaint a California citizen residing in San Diego County, California. Plaintiff worked for Defendants as a non-exempt manager at Defendants' restaurants in cities such as Vista and San Marcos from approximately 2022 to February 5, 2025. At all times herein, Plaintiff was and is an "employee" as that term is used in the Labor Code and IWC Wage Orders regulating wages, hours, and working conditions.

7. Plaintiff seeks the recovery alleged herein from Defendants because, at all times

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while working for Defendants in her capacity as a non-exempt employee, Defendants:

a. Failed to pay all wages owed in violation of Labor Code sections 1194 and 1197 and Section 4 of the IWC Wage Order(s);

b. Failed to fail to pay all overtime compensation owed for time worked in excess of either eight hours in one work day or forty hours in one work week in violation of Labor Code section 510 and Section 3 of the IWC Wage Order(s);

c. Failed to provide meal periods in violation of Labor Code sections 226.7 and 512 and Section 11 of the IWC Wage Order(s);

d. Failed to authorize and permit all paid rest periods in violation of Labor Code sections 226.7 and Section 12 of the IWC Wage Order(s);

e. Failed to indemnify for business expenses incurred in violation of Labor Code section 2802;

f. Failed to furnish complete and accurate itemized wage statements in violation of Labor Code section 226, subdivision (a), and Section 7 of the IWC Wage Order(s);

g. Violated Labor Code section 203 by willfully failing to pay, without abatement or reduction, all final wages owed in accordance with Labor Code sections 201 and 202; and

h. Conducted unfair business practices in violation of Business & Professions Code section 17200, *et seq*.

8. Defendant SD POLLO, INC. ("SDPI") is a California corporation headquartered in Fallbrook, California, and is registered with the California Secretary of State to do business within California. SDPI, at all relevant times herein has conducted business within California, and is the owner and operator of an industry, business and/or facility licensed to do business and actually doing business in the State of California as an El Pollo Loco franchisee. On information and belief, SDPI's principal place of business is, as listed on the California Secretary of State's website, 6035 Rainbow Heights Road, Fallbrook, California. Defendant SDPI is an "employer" as the term is used in the Labor Code and IWC Wage Orders.

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9. The Defendants sued by the fictitious names DOES 1 through 100, inclusive, are on information and belief now, and/or at all times mentioned in this Complaint were licensed to do business and/or actually doing business in California, including San Diego County, and each of the fictitiously named Defendants is responsible for the conduct alleged in this Complaint. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 100, inclusive and for that reason, DOES 1 through 100 are sued under such fictitious names pursuant to Code of Civil Procedure section 474. Plaintiff will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained.

10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were in some manner legally responsible for the events, happenings and circumstances alleged in this Complaint.

11. Defendants, and each of them, proximately subjected Plaintiff to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Complaint.

12. Defendants, and each of them, are now and/or at all times mentioned herein were the agents, servants and/or employees of some or all other Defendants, or vice-versa, and in doing the things alleged in this Complaint, Defendants are now and/or at all times mentioned in this Complaint were acting within the course and scope of that agency, servitude and/or employment.

13. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in a joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint venture, partnership and common enterprise.

14. Defendants, and each of them, at all times mentioned in this Complaint concurred and contributed to the various acts and omissions of each and every one of the other Defendants in proximately causing the complaints, injuries and/or damages alleged in this Complaint.

15. Defendants, and each of them, at all times mentioned in this Complaint approved of, condoned and/or otherwise ratified each and every one of the acts and/or omissions alleged in this Complaint.

16. Defendants, and each of them, at all times mentioned in this Complaint aided and

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abetted the acts and omissions of each and every one of the other Defendants thereby proximately causing the damages alleged in this Complaint.

III. JURISDICTION AND VENUE

17. The California Superior Court has jurisdiction in this matter pursuant to California Constitution Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." The statutes under which this action is brought do not specify any other specific basis for jurisdiction.

18. The California Superior Court also has jurisdiction in this matter because both the individual and aggregate monetary damages and restitution sought herein exceed the minimal jurisdictional limits of the Superior Court and will be established at trial, according to proof.

19. The California Superior Court also has jurisdiction over Defendants because they are corporations and/or entities and/or persons with sufficient minimum contacts in California, are citizens of California, or otherwise intentionally availed themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

20. Venue is proper in the Superior Court of California, County of San Diego pursuant to Code of Civil Procedure section 395(a) and Code of Civil Procedure section 395.5 in that liability arose there because at least some of the acts and omissions that are the subject matter of this Complaint occurred therein and/or each Defendant either is found, maintains offices, transacts business, exists, and/or has an agent therein.

IV. GENERAL ALLEGATIONS

21. Plaintiff, the class members, and aggrieved employees are current and former non-exempt, hourly paid employees of Defendants and thus have performed work for Defendants, and/or on Defendants' behalf, in the State of California.

22. Plaintiff alleges that Defendants adopted and maintained uniform policies, practices and procedures governing the working conditions of, and payment of wages to, Plaintiff and the class members. As alleged below, Defendants' uniform policies, practices and procedures violated California's labor laws and constituted unfair, fraudulent or illegal business practices under

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Business & Professions Code section 17200 *et seq*.

23. During the relevant statutory period, Defendants failed to pay Plaintiff and their non-exempt hourly employees all wages including all overtime compensation owed for time worked in excess of either eight hours in one work day or forty hours in one work week due to their policy of requiring non-exempt hourly employees to continue performing work-related tasks after clocking out of their shifts. Such work-related tasks include but are not limited to, cleaning and prepping the kitchen for upcoming shifts of other employees Additionally, on information and belief, Defendants failed to pay for all hours worked by due to their policy and practice of requiring non-exempt employees to work off the clock on Saturdays by driving their own personal vehicles to privately catered events at hospitals, schools, homes, etc.

24. During the relevant statutory period, Defendants failed to provide Plaintiff and their non-exempt hourly employees with a meal period within five (5) hours of commencing work and a second meal period within ten (10) hours of commencing work, as required by California law and failed to pay meal period premiums for the incompliant meal periods. For example, Plaintiff was often missed meal periods and in the event that Plaintiff was able to take one, it was often interrupted or cut short due to the demands of the restaurant.

25. During the relevant statutory period, Defendants failed to relinquish control over Plaintiff and their non-exempt employees to provide them with legally-compliant ten (10) minute off-duty rest periods for every four (4) hours of work or major fraction thereof, as required by California law and failed to pay meal period premiums for the incompliant meal periods. Plaintiff and other hourly non-exempt employees typically worked and work eight hours per day, and Defendants' policies and practices routinely prevented and prevent them from taking the off-duty ten minute rest periods they are entitled to by making non-exempt employees either miss their rest periods altogether, work through their rest periods, take untimely rest periods, or take shortened rest periods.

26. During the relevant statutory period, Defendants failed to indemnify Plaintiff and non-exempt employees for necessary expenditures incurred in direct consequence of the discharge of their work duties. For example, Plaintiff was instructed by Defendants to work off the clock on

Saturdays and drive her own personal vehicle private catered events, without being fully compensated for the use and mileage of her vehicle.

27. During the relevant statutory period, Defendants furnished Plaintiffs and non-exempt employees with inaccurate itemized wage statements. For example, Plaintiff's wage statements are incorrect by virtue of the total hours including PTO hours. Moreover, as a result of alleged violations discussed above, Defendants furnished wage statements that failed to correctly show, among other items: (1) the gross wages earned, (2) all deductions, and (3) net wages earned.

28. During the relevant statutory period, Defendants failed to pay its former non-exempt hourly employees all wages owed at the time of separation of employment. For example, Plaintiff's employment concluded on or around February 5, 2025 and she has yet to receive all wage owed as a result of the violations described above.

29. Plaintiff is informed and believes, and based thereon alleges, that each and every one of the acts and omissions alleged herein was performed by, and/or attributable to, Defendants SDPI and/or DOES 1-100 acting as agents and/or employees, and/or under the direction and control of Defendants, and that said acts and failure to act were within the course and scope of said agency, employment, and/or direction and control, and were committed willfully.

30. As a direct and proximate result of Defendants' unlawful actions, Plaintiff and the class members have suffered and continue to suffer from loss of earnings and penalties in amounts as yet to be ascertained, but subject to proof at trial in amounts in excess of the minimum jurisdiction of this Court.

V. <u>CLASS ACTION ALLEGATIONS</u>

31. Plaintiff brings this class action complaint against Defendants, individually, and on behalf of all others similarly situated pursuant to Code of Civil Procedure section 382. This action may be brought and properly maintained as a class action because as set forth herein Plaintiff satisfies the numerosity, adequacy, typicality, and commonality pre-requisites for suing as representative parties pursuant to Code of Civil Procedure section 382.

32. <u>Description of the Classes</u>: The classes Plaintiff will seek to certify are currently composed of and defined as follows:

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a. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from June 26, 2021 through the conclusion of this action, were subject to Defendants' policies and practices regarding off the clock work (hereinafter, the "Off The Clock Class");

b. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from June 26, 2021 through the conclusion of this action, were subject to Defendants' policies and practices regarding meal periods (hereinafter, the "Meal Period Class");

c. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from June 26, 2021 through the conclusion of this action, were subject to Defendants' policies and practices regarding rest periods (hereinafter, the "Rest Period Class");

d. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from June 26, 2021 through the conclusion of this action, were subject to Defendants' policies and practices regarding reimbursement of business expenses (hereinafter, the "Business Expense Reimbursement Class");

e. All persons employed by Defendants as hourly non-exempt employees in the state of California, who at any time from June 26, 2021 through the conclusion of this action, were subject to Defendants' policies and practices regarding wage statements (hereinafter, the "Wage Statement Class");

f. All persons employed by Defendants as hourly non-exempt employees in the state of California who, at any time from June 26, 2022 through the conclusion of this action, were subject to Defendants' policies and practices regarding final payment of wages (hereinafter, the "Final Pay Class");

33. Each of the aforementioned classes are referred to collectively herein as "the Classes."

34. As a consequence of obtaining information and documents through discovery in

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this litigation, Plaintiff may find it appropriate and/or necessary to amend the definition of the Class(es) and/or add additional classes and/or subclasses. Plaintiff will formally define and designate a class definition(s) at such time when Plaintiff seeks to certify the Classes alleged herein.

35. Numerosity: The potential number of members of each Class alleged herein is so numerous that joinder of all members is unfeasible and impractical. The exact quantity of members in each Class and the identity of all members is readily ascertainable via inspection of Defendant's records.

36. Well-defined Community of Interest: Plaintiff also meets the established standards for class certification, as follows:

a. Typicality: The claims of Plaintiff are typical of the claims of all members of each Class she seeks to represent because all members of each Class sustained injuries and damages arising out of Defendant's common course of conduct in violation of law and the injuries and damages of all members of each Class were caused by Defendants' wrongful conduct in violation of law, as alleged herein.

b. Adequacy: Plaintiff is an adequate representative of each Class she seeks to represent and will fairly protect the interests of the members of each Class. Plaintiff has no interest antagonistic to each Class and will vigorously pursue favorable resolution of this suit on behalf of herself and members of each Class via attorneys who are competent, skilled and experienced in litigating class actions.

c. Predominant Common Questions of Law and/or Fact: There are common questions of law and/or fact as to each Class that predominate over questions affecting only individual members of each Class, including, without limitation:

i) Whether Defendants failed and continue to fail to pay all wages owed due in violation of Labor Code sections 1194 and 1197 and the IWC Wage Order(s);

ii) Whether Defendants failed and continue to fail to pay all overtime compensation in violation of Labor Code section 510 and the IWC Wage Order(s);

iii) Whether Defendants failed and continue to fail to provide all meal periods in violation of Labor Code sections 226.7 and 512 and the IWC Wage Order(s);

iv) Whether Defendants failed and continue to fail to authorize and permit all paid rest periods in violation of Labor Code sections 226.7 and the IWC Wage Order(s);

v) Whether Defendants failed and continue to fail to indemnify employees for all business expenses incurred in violation of Labor Code section 2802;

vi) Whether Defendants failed and continue to fail to provide complete and accurate itemized wage statements in violation of Labor Code section 226, subdivision (a);

vii) With regard to Defendants' former non-exempt employees, whether Defendants have violated Labor Code section 203 by willfully failing to pay, without abatement or reduction, all final wages owed in accordance with Labor Code sections 201, 201.3, 201.5, 202, and 205.5;

viii) Whether Defendants' conduct constitutes unfair competition within the meaning of Business & Professions Code section 17200, *et seq*.;

ix) Whether members of the Classes are entitled to compensatory damages, and if so, the means of measuring such damages;

x) Whether members of the Classes are entitled to injunctive relief;

xi) Whether members of the Classes are entitled to restitution; and

xii) Whether Defendants are liable for attorneys' fees and costs.

37. <u>Superiority</u>: The nature of this action and the nature of the laws available to

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Plaintiff and members of the Classes is such that a class action is not only superior to other methods, but also particularly efficient and appropriate to afford relief to Plaintiff and members of the Classes for the wrongs alleged herein, as follows:

a. By allowing a method whereby claims of many individuals can be resolved at the same time, the class action device eliminates the possibility of repetitious litigation, inconsistent rulings, and provides small claimants with the opportunity to redress for claims which would otherwise be too small to justify the filing of individual actions;

b. This case involves a large corporate Defendant and a large number of individuals with many relatively small claims and common issues of law and fact;

c. If each individual member of the Classes was required to file an individual lawsuit, the large corporate Defendant would necessarily gain an unconscionable advantage because Defendant would be able to exploit and overwhelm the limited resources of each individual member of the Classes with Defendant's vastly superior financial and legal resources;

d. Requiring each individual member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by individual members of the Classes who would be disinclined to pursue an action against Defendant because of an appreciable and justifiable fear of retaliation and permanent damage to their lives, careers and wellbeing;

e. Proof of a common business practice or factual pattern, of which members of the Classes experienced, is representative of the Classes herein and will establish the right of each member of the Classes to recover on the causes of action alleged herein.

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VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL WAGES

(By Plaintiff, individually, and on behalf of the Off The Clock Class against Defendant SDPI and DOES 1 to 100, inclusive)

38. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

39. Labor Code section 1194, subdivision (a), states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

40. Further, pursuant to Labor Code section 1197, payment of less than the minimum wage fixed by the Labor Commission is unlawful.

41. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer than the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC Wage Order(s).

42. Pursuant to the IWC Wage Order(s), Defendants are required to pay Plaintiff and members of the Off The Clock Class for all hours worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work, whether or not required to do so.

43. Defendants, as a matter of established company policy and procedure, consistently administered a uniform company policy and practice of requiring Plaintiff and members of the Off The Clock Class to perform work-related tasks while off the clock.

44. Because Defendants required Plaintiff and members of the Off The Clock Class to remain under Defendants' control without paying therefore, this resulted in Plaintiff and members of the Off The Clock Class earning less than the legal minimum wage in the State of California.

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45. Defendants' pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement, pursuant to Labor Code section 218, to recovery by Plaintiff and members of the Off The Clock Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the appropriate rate.

46. Further, Defendants' pattern and practice in uniform administration of corporate policy regarding Defendants' failure to pay the legal minimum wage to Plaintiff and members of the Off The Clock Class as described herein is unlawful and creates entitlement, pursuant to Labor Code section 1194(a), to recovery by Plaintiff and members of the Off The Clock Class, in a civil action, for the unpaid balance of the full amount of the unpaid minimum wages owed calculated as the difference between the straight time compensation paid and the applicable minimum wage (and/or the full amount of unpaid overtime compensation, which includes any unpaid straight time and unpaid overtime premium for overtime hours worked), including interest thereon.

47. Pursuant to Labor Code section 1194.2, subdivision (a), which provides that in any action under Labor Code section 1194, an employee shall be entitled to recover liquidated damages, Plaintiff, individually, and on behalf of members of the Off The Clock Class, seeks recovery of liquidated damages on the straight-time portion of uncompensated hours of work (not including the overtime portion thereof) in an amount equal to the wages unlawfully unpaid and interest thereon.

48. Pursuant to Labor Code section 218.6, Labor Code section 1194, subdivision (a), and Civil Code section 3287, Plaintiff, individually, and on behalf of members of the Off The Clock Class, seeks recovery of pre-judgment interest on all amounts recovered herein.

49. Pursuant to Labor Code section 218.5 and/or Labor Code section 1194, Plaintiff, individually, and on behalf of members of the Off The Clock Class, requests that the Court award reasonable attorneys' fees and costs incurred in this action.

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SECOND CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME COMPENSATION

(By Plaintiff, individually, and on behalf of the Off The Clock Class against Defendant SDPI and DOES 1 to 100, inclusive)

50. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

51. California Labor Code section 510 provides non-exempt employees, including Plaintiff and members of the Off The Clock Class, the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of 8 hours in a day or 40 hours in a week or for the first 8 hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of 12 hours in a day or in excess of 8 hours in a day on the seventh day of work.

52. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons, such as Plaintiff and members of the Off The Clock Class, without compensating them at a rate of pay either one-and-one-half times or twice that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

53. Upon information and belief, as a matter of policy and practice across Defendants' locations in California, Defendants consistently administered a uniform company policy and practice of requiring Plaintiff and members of the Off The Clock Class to work in excess of 8 hours per day or 40 hours per week.

54. Defendants, as a matter of established company policy and procedure, consistently administered a uniform company policy and practice of requiring Plaintiff and members of the Off The Clock Class to perform work-related tasks while off the clock.

55. Because Defendants required Plaintiff and members of the Off The Clock Class to remain under Defendants' control without paying therefore, this resulted in Plaintiff and members of the Off The Clock Class earning less than the legal minimum wage in the State of California.

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56. As a result of Defendants' conduct alleged herein, Plaintiff and members of the Off The Clock Class have suffered damages and are entitled to recover the full amount of unpaid wages in an amount to be proven at trial and interest thereon, applicable penalties, liquidated damages, and costs of suit including attorney's fees.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(By Plaintiff, individually, and on behalf of the Meal Period Class against Defendant SDPI and DOES 1 to 100, inclusive)

57. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

58. Labor Code section 226.7, subdivision (b), provides that "An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health."

59. Labor Code section 512 provides that "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived."

60. Labor Code section 516 provides that the Industrial Welfare Commission "may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers."

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61. Section 11(A) of the IWC Wage Order(s) provides that "Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

62. Section 11(B) of the IWC Wage Order(s) provides that "If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this 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."

63. On one or more occasions, Plaintiff and members of the Meal Period Class worked over five (5) hours per shift and therefore were entitled to a meal period of not less than thirty (30) minutes prior to exceeding five (5) hours of employment.

64. On one or more occasions, Plaintiff and members of the Meal Period Class worked over ten (10) hours per shift and therefore were entitled to a second meal period of not less than thirty (30) minutes prior to exceeding ten (10) hours of employment.

65. On information and belief, Plaintiff and members of the Meal Period Class did not validly or legally waive their meal periods, by mutual consent with Defendants or otherwise.

66. On information and belief, Plaintiff and members of the Meal Period Class did not enter into any written agreement with Defendants agreeing to an on-the-job paid meal period.

67. As a matter of Defendants' established company policy implemented, Defendants failed to comply with the meal period requirements established by Labor Code sections 226.7, 512, and 516, and Section 11 of the IWC Wage(s) by failing to provide Plaintiff and members of the Meal Period Class with a first and a second legally compliant meal period.

68. Section 11(B) of the IWC Wage Order(s) and Labor Code section 226.7, subdivision (c), provides that "If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the

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Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

69. As a matter of Defendants' established company policy, Defendants failed to comply with the requirements of Section 11(B) of the IWC Wage Order(s) and Labor Code section 226.7, subdivision (c), by failing to pay Plaintiff and members of the Meal Period Class one additional hour of pay at each employee's regular rate of compensation for each workday that a compliant meal period was not provided.

70. Therefore, Plaintiff and members of the Meal Period Class are entitled to damages in an amount equal to one (1) additional hour of pay at each employee's regular rate of compensation for each work day that a compliant meal period was not provided, in a sum to be proven at trial.

71. Pursuant to Labor Code section 218.6 and Civil Code section 3287, Plaintiff, individually, and on behalf of members of the Meal Period Class, seeks recovery of pre-judgment interest on all amounts recovered herein.

72. Pursuant to Labor Code section 218.5, Plaintiff, individually, and on behalf of members of the Meal Period Class, requests that the Court award reasonable attorneys' fees and costs incurred in this action.

FOURTH CAUSE OF ACTION

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS

(By Plaintiff, individually, and on behalf of the Rest Period Class against Defendant SDPI and DOES 1 to 100, inclusive)

73. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

74. Labor Code section 226.7, subdivision (b), provides that "An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare

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Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health."

75. Labor Code section 516 provides that the Industrial Welfare Commission "may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers."

76. Section 12(A) of the IWC Wage Order(s) provides that "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages."

77. Section 12(B) of the IWC Wage Order(s) provides that "If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this 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 rest period is not provided."

78. Plaintiff and members of the Rest Period Class often worked over three and one-half (3 1/2) hours per shift and therefore were entitled to a rest period of not less than ten (10) minutes prior to exceeding four (4) hours of employment, and additional rest periods of not less than ten (10) minutes per four (4) hours worked or major fraction thereof. Upon information and belief, Defendants' policies and practices failed and fail to provide Plaintiff and class members with off-duty net rest periods of at least ten minutes for each four hours worked, or major fraction thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays Defendants failed to provide them with an opportunity to take rest periods.

79. As a matter of Defendants' established company policy, Defendants failed to authorize and permit required off-duty rest periods established by Labor Code sections 226.7 and 516 and Section 12 of the IWC Wage Order(s). Pursuant to *Augustus v. ABM Security Services, Inc.*, (2017) 2 Cal.5th 257, 260, "[d]uring required rest periods, employers must relieve their

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employees of all duties and relinquish any control over how employees spend their break time."

80. Section 12 of the IWC Wage Order(s) and Labor Code section 226.7, subdivision (b), provides that "If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

81. As a matter of Defendants' policies and procedures, Defendants failed to comply with the requirements of Section 12(B) of the IWC Wage Order(s) and Labor Code section 226.7, subdivision (c), by failing to pay Plaintiff and members of the Rest Period Class one additional hour of pay at each employee's regular rate of compensation for each workday that an off-duty rest period was not provided.

82. Therefore, pursuant to Section 12 of the IWC Wage Order(s) and Labor Code section 226.7, Plaintiff and members of the Rest Period Class are entitled to damages in an amount equal to one (1) additional hour of pay at each employee's regular rate of compensation for each work day that a legally compliant rest period was not so provided.

83. Pursuant to Labor Code section 218.6 and Civil Code section 3287, Plaintiff, individually, and on behalf of the Rest Period Class, seeks recovery of pre-judgment interest on all amounts recovered herein.

84. Pursuant to Labor Code section 218.5, Plaintiff, individually, and on behalf of the Rest Period Class, requests that the Court award reasonable attorneys' fees and costs incurred in this action.

<u>FIFTH CAUSE OF ACTION</u>

FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES

(By Plaintiff, individually, and on behalf of the Business Reimbursement Class against Defendant SDPI and DOES 1 to 100, inclusive)

85. Pursuant to California Labor Code section 2802, subd. (a), an employer must

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indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

86. As alleged herein, Plaintiff and the Business Expense Reimbursement Class members were forced to make expenditures. Specifically, on information and belief, Defendants required Plaintiff and members of the Business Expense to drive their personal vehicles to private catered events, without being fully compensated for the use and mileage of their vehicles. These expenditures occurred as a condition of employment with Defendants. Defendants, however, failed to indemnify and reimburse Plaintiff and Business Expense Reimbursement Class members in violation of Labor Code section 2802.

87. As a result of Defendants' conduct alleged herein, Plaintiff and members of the Business Expense Class have suffered damages and are entitled to recover the full amount of business-related expenses charged to them in an amount to be proven at trial and interest thereon, and costs of suit including attorney's fees pursuant to California Labor Code section 2802.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS

(By Plaintiff, individually, and on behalf of the Wage Statement Class against Defendant SDPI and DOES 1 to 100, inclusive)

88. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

89. Labor Code section 226(a) states in pertinent part: "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee… (4) all deductions… (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid… (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect

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during each the pay period and the corresponding number of hours worked at each hourly rate by the employee….”

90. As a pattern and practice, in violation of Labor Code section 226(a), Defendants did not and still do not furnish each of the members of the Wage Statement Class with an accurate itemized statement in writing correctly showing: (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

91. As a pattern and practice, in violation of Labor Code section 226(a) and Section 7, subdivision (A), of the IWC Wage Order(s), Defendants did not and do not maintain accurate records pertaining to the total hours worked for Defendants by Plaintiff and members of the Wage Statement Class, including but not limited to, gross wages earned, total hours worked by the employee, all deductions, net wages earned.

92. As of January 1, 2013, SB 1255 amended Labor Code section 226 to clarify that an employee suffers injury if the employer fails to provide accurate and complete information as required by any one or more items listed in Labor Code section 226(a)(1)-(9) and the employee cannot promptly and easily ascertain requisite information without reference to other documents or information.

93. Here, Plaintiff and members of the Wage Statement Class suffered injury because Defendants failed to provide accurate and complete information as required by one or more items listed in Labor Code section 226(a)(1)-(9) as set forth herein and Plaintiff and members of the

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Wage Statement Class could not and cannot promptly and easily ascertain requisite information without reference to other documents or information.

94. In addition, Plaintiff and members of the Wage Statement Class have suffered injury as a result of Defendants' failure to maintain accurate records in that Plaintiff and members of the Wage Statement Class were not provided written accurate itemized statements showing all requisite information as set forth herein in violation of Labor Code section 226 and Section 7, subdivision (A), of the IWC Wage Order(s), such that Plaintiff and members of the Wage Statement Class were misled by Defendants as to the correct information regarding the various items, including but not limited to, the pay period paid for, Defendants' address, total hours worked by the employee, gross wages earned, net wages earned, all deductions, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

95. The actual injuries suffered by Plaintiff and members of the Wage Statement Class as a result of Defendants' knowing and intentional failure to maintain accurate records include but are not limited to:

a. Confusion over whether they received all wages owed them by Defendants;
b. The difficulty and expense of attempting to reconstruct time and pay records;
c. Being forced to engage in mathematical computations to analyze whether Defendants' wages in fact compensated for all hours worked;
d. The inability to accurately calculate wage rates complicated by the fact that wage statement information required by Labor Code section 226 is missing;
e. That such practice prevents Plaintiff and members of the Classes from being able to effectively challenge information on their wage statements; and/or
f. The difficulty and expense of filing and maintaining this lawsuit, and the discovery required to collect and analyze the very information that California law requires.

96. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and members of the Wage Statement Class are entitled to fifty dollars ($50.00) per individual employee for the initial

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pay period in which a violation hereunder occurred and one hundred dollars ($100.00) per individual employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000.00) per individual employee.

97. Pursuant to Labor Code section 226, subdivision (g), currently-employed members of the Wage Statement Class are entitled to injunctive relief to ensure Defendants' compliance with Labor Code section 226.

98. Pursuant to Labor Code section 226, subdivisions (e) and/or (g), Plaintiff and members of the Wage Statement Class are also entitled to an award of costs and reasonable attorneys' fees.

SEVENTH CAUSE OF ACTION

VIOLATIONS OF LABOR CODE §§ 201, 202, 203

(By Plaintiff, individually, and on behalf of the Final Pay Class against Defendant SDPI and DOES 1 to 100, inclusive)

99. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

100. Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201 and 202, any wages of an employee who is discharged or who quits, the wages of the employee shall continue at the same rate, for up to thirty (30) days from the due date thereof, until paid or until an action therefore is commenced.

101. Defendants have a consistent and uniform policy, practice and procedure of willfully failing to pay the earned wages of Defendants' former employees according to amendment or proof.

102. Defendants willfully failed to pay Plaintiff and members of the Final Pay Class that are former employees their entire wages due and owing at the time of their termination or within seventy-two (72) hours of their resignation, and failed to pay those sums for up to thirty (30) days thereafter.

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103. Defendants' willful failure to pay wages to Plaintiff and members of the Final Pay Class that are former employees violates Labor Code section 203 because Defendants knew or should have known such wages were due, but Defendants failed to pay them.

104. Thus, Plaintiff and members of the Final Pay Class are entitled to recovery pursuant to Labor Code section 203.

EIGHTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES

(By Plaintiff, individually, and on behalf of the Classes against Defendant SDPI and DOES 1 to 100, inclusive)

105. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

106. Business & Professions Code section 17200 provides in pertinent part "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice."

107. Defendants are a "person" as defined under Business & Professions Code section 17201.

108. Business & Professions Code section 17204 provides that an action for any relief from unfair competition may be prosecuted by any person who has suffered injury in fact and has lost money or property as a result of such unfair competition.

109. Business & Professions Code section 17205 provides that unless otherwise expressly provided, the remedies or penalties provided for unfair competition "are cumulative to each other and to the remedies or penalties available under all other laws of this state."

110. Defendants have engaged in unlawful, unfair and fraudulent business acts or practices prohibited by Business & Professions Code section 17200, including those set forth in the preceding and foregoing paragraphs of the complaint, thereby depriving Plaintiff and members of the Classes of the minimum working standards and conditions due to them under the Labor Code and/or the IWC Wage Orders, as specifically described herein.

111. Defendants have engaged in unfair business practices in California by practicing,

employing and utilizing the employment practices outlined in the preceding paragraphs, specifically, by requiring employees to perform the labor services complained of herein without the requisite compensation.

112. Defendants' use of such practices constitutes an unfair business practice, unfair competition and provides an unfair advantage over Defendants' competitors.

113. Plaintiff and members of the Classes have suffered injury in fact and have lost money or property as a result of such unfair competition.

114. Plaintiff, individually, and on behalf of members of the Classes, seeks full restitution from Defendants, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants by means of the unfair practices complained of herein.

115. Further, if Defendants are not enjoined from the conduct set forth above, Defendants will continue to practice, employ and utilize the employment practices outlined in the preceding paragraphs.

116. Therefore, Plaintiff requests that the Court issue a preliminary and permanent injunction prohibiting Defendants from engaging in the foregoing conduct.

117. Plaintiff seeks the appointment of a receiver, as necessary, to establish the total monetary relief sought from Defendant.

NINTH CAUSE OF ACTION

VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA")

(By Plaintiff, as an aggrieved employee and on behalf of the LWDA for all Aggrieved Employees against Defendant SDPI and DOES 1 to 100, inclusive)

118. Plaintiff incorporates by reference and realleges each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

119. Pursuant to Labor Code section 2698, *et seq*., Plaintiff seeks to recover all applicable civil penalties and reasonable attorneys' fees and costs, permitted under PAGA through a representative action on behalf of all aggrieved employees that work or worked for Defendants

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during the relevant time period.

120. In accordance with *Arias v. Superior Court* (2009) 46 Cal.4th 969, a representative action is not subject to the formalities required of a class action and class certification of PAGA claims is not required.

121. Plaintiff is an "aggrieved employee" within the meaning of Labor Code section 2699(c) because he was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations, as alleged herein. Thus, Plaintiff is well suited to represent the interests of all other aggrieved employees in in this PAGA representative action.

122. Pursuant to Labor Code section 2699(i), seventy-five percent (75%) of civil penalties recovered by aggrieved employees shall be distributed to the Labor and Workforce Development Agency (hereinafter "LWDA") for enforcement of labor laws and education of employers and employees about their rights and responsibilities under this code, and twenty-five percent (25%) shall be distributed to the aggrieved employees.

123. Plaintiff's representative action alleges violations of certain Labor Code sections that are listed within Labor Code section 2699.5. Accordingly, Labor Code section 2699.3(a) applies to this action, and Labor Code section 2699.3(b)-(c) do not apply.

124. On May 12, 2025, Plaintiff complied with Labor Code section 2699.3(a) by electronically filing written notice with the LWDA upon the LWDA regarding the specific provisions of the Labor Code alleged to have been violated by Defendants and Plaintiff's intent to pursue civil penalties against Defendants on behalf of aggrieved employees pursuant to PAGA. Attached hereto as **Exhibit 1** is a true and correct copy of Plaintiff's notice letter.

125. Labor Code section 2699.3(a) provides in pertinent part that: "The agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received… [u]pon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given… the aggrieved employee may commence a civil action pursuant to Section 2699." More than sixty-five calendar days have passed since Plaintiff served notice upon the LWDA and Defendants, and the LWDA did not provide notice of its intent to

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investigate Plaintiff's claims. Accordingly, Plaintiff exhausted her obligation to provide administrative notice and is authorized to commence this representative action seeking civil penalties on behalf of herself and all other aggrieved employees of Defendants.

126. Pursuant to Labor Code section 2699(a), any provision 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 herself and other current or former employees pursuant to the procedures specified in Labor Code section 2699.3.

127. Pursuant to Labor Code section 2699(f)(2), for all provisions of the Labor Code for which a civil penalty is not specifically provided, there is established a civil penalty that imposes a penalty of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

128. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff, on behalf of herself and aggrieved employees, seeks applicable civil penalties for violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, 1199, and 2802 during the statutory period as set forth below.

129. For violations of Labor Code section 201, 202, 203, 226.7, 510, 512, 1194, 1197 1198, 1199, and 2802, Labor Code section 2699(f)(2) imposes a civil penalty of one hundred dollars ($100) for each aggrieved employee per pay period for each initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

130. For violations of Labor Code section 204, Labor Code section 210 imposes a civil penalty of one hundred dollars ($100) for each aggrieved employee for each initial violation that was neither willful nor intentional, and two hundred dollars ($200) for each aggrieved employee, for each subsequent violation, regardless of whether the subsequent violation was willful or intentional.

131. For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a

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civil penalty, in addition to any other penalty provided by law, of two hundred fifty dollars ($250) per aggrieved employee for the first violation, and one thousand dollars ($1,000) per aggrieved employee for each subsequent violation.

132. Defendants violated Labor Code sections 510, 1194, 1197, and 1198 by not paying Plaintiff and aggrieved employees all wages owed for all hours worked for each pay period as a result of Defendants' policy or practice of subjecting them to Defendant's control while off the clock. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

133. Defendants violated Labor Code sections 226.7 and 512 by denying Plaintiff and all other aggrieved employees an opportunity to take timely off-duty and uninterrupted thirty minute meal periods for every five hours worked, including timely off-duty and uninterrupted thirty minute long meal periods before the end of the fifth hour of work, and by failing to pay a premium wage equivalent to an additional hour of pay at the regular rate of pay for each day a compliant meal period was not provided. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

134. Defendants violated Labor Code section 226.7 by denying Plaintiff and all other aggrieved employees of Defendants a ten minute off-duty rest period for every four hours worked, or major fraction thereof, and by failing to provide a premium wage equivalent to an additional hour of pay at the regular rate of pay for each workday that a compliant rest period was not provided. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

135. Defendants violated Labor Code section 2802 by forcing Plaintiff and aggrieved

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employees to make business related expenditures without reimbursement. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

136. Defendants violated Labor Code section 226(a) by failing to provide Plaintiff and aggrieved employees with accurate itemized wage statements correctly identifying, among other things, the total hours worked, wages earned, the correct amount of net wages earned, and the correct amount of deductions that were paid or should have been paid. Thus, pursuant to Labor Code sections 226.3 and 2699(a), Defendants, in addition to, and entirely independent and apart from any other penalty, are subject to a civil penalty for violation Labor Code section 226(a) in the amount of two hundred and fifty dollars ($250) per aggrieved employee per violation in an initial citation and one thousand dollars ($1,000) per aggrieved employee for each violation in a subsequent citation.

137. Defendants violated Labor Code sections 201, 202, and 203 by willfully failing to timely pay Plaintiff and aggrieved employees all wages owed upon separation of employment by failing to pay all sick pay, and Defendants' failure to pay meal and rest period premium wages owed. Thus, pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil penalty of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation of these sections, and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

138. At all material times, Defendants were Plaintiff and all other aggrieved employees' employers, or persons acting on their behalf, within the meaning of Labor Code section 558, who violated or caused to be violated, a section of Part 2, Chapter 1 of the Labor Code or any provision regulating hours and days of work in the applicable IWC Wage Order and, as such, are subject to civil penalties for each underpaid employee as set forth in Labor Code section 558. The civil penalties provided for under Labor Code section 558 are in addition to any other civil penalty provided by law.

139. Pursuant to Labor Code sections 558 and 2699(a), Defendants are subject to a civil

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penalty of fifty dollars ($50) for each initial violation and one hundred dollars ($100) for each subsequent violation of Labor Code sections 510 and 1194 for each pay period for which Plaintiff and all other aggrieved employees of Defendants were not paid all wages owed as a result of Defendants' failure to pay wages owed for all overtime, as alleged herein.

140. Pursuant to Labor Code sections 558 and 2699(a), Defendants are subject to a civil penalty of fifty dollars ($50) for each initial violation and one hundred dollars ($100) for each subsequent violation of Labor Code section 226.7 for each pay period for which Plaintiff and all other aggrieved employees of Defendants were not provided with a compliant timely off-duty and uninterrupted thirty minute meal period and/or ten minute long rest periods for every four hours worked, or major fraction thereof, as alleged herein.

141. Defendants violated Labor Code section 1198 by failing to comply with the maximum hours of work and the standards conditions of labor fixed by the IWC under the "Hours and Days of Work", the "Meal Period", the "Rest Period" and "Record" sections of the applicable IWC Wage Order, by failing to provide compliant meal periods, failing to pay meal periods premium wages, failing to provide compliant rest periods, failing to pay rest period premium wages, failing to keep and provide accurate records, and failing to timely pay owed wages upon separation of employment, as alleged herein. Thus pursuant to Labor Code section 2699(f)(2), Defendants are subject to a civil penalty in the amount of one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

That the Court issue an Order certifying the Classes herein, appointing Plaintiff as representative of all others similarly situated, and appointing the law firm representing Plaintiff as counsel for the members of the Classes;

<u>As to the First Cause of Action for Failure to Pay All Wages</u>:

a. For recovery of the unpaid balance of the full amount of the straight time compensation due and owing, according to proof;

b. For liquidated damages on the straight-time portion of uncompensated hours of work (not including the overtime portion thereof), as authorized by Labor Code section 1194.2, subdivision (a);

c. For recovery of the unpaid balance of the full amount of the earned overtime compensation due and owing, calculated at the appropriate rate and according to proof;

d. For pre-judgment interest as allowed by Labor Code section 218.6, Labor Code section 1194, subdivision (a) and Civil Code section 3287;

e. For an award of reasonable attorneys' fees and costs pursuant to Labor Code section 218.5 and/or Labor Code section 1194, subdivision (a);

<u>As to the Second Cause of Action for Failure to Pay Overtime</u>:

f. For recovery of the full amount of unpaid wages in an amount to be proven at trial and interest thereon, applicable penalties, liquidated damages, and costs of suit including attorney's fees;

<u>As to the Third Cause of Action for Failure to Provide Meal Periods</u>:

g. For one (1) hour of pay at the regular rate of compensation for each member of the Meal Period Class for each workday that a full meal period was not provided;

h. For pre-judgment interest as authorized by Labor Code section 218.6 and Civil Code section 3287;

i. For an award of reasonable attorneys' fees and costs pursuant to Labor Code section 218.5;

<u>As to the Fourth Cause of Action for Failure to Provide Rest Periods</u>:

j. For one (1) hour of pay at the regular rate of compensation for each member of the Rest Period Class for each workday that a full rest period was not provided;

k. For pre-judgment interest as authorized by Labor Code section 218.6 and Civil Code section 3287;

l. For an award of reasonable attorneys' fees and costs pursuant to Labor Code section 218.5;

<u>As to the Fifth Cause of Action for Failure to Indemnify for Business Expenses</u>:

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m. For the full amount of business-related expenses charged to them in an amount to be proven at trial and interest thereon, and costs of suit including attorney's fees pursuant to California Labor Code section 2802;

<u>As to the Sixth Cause of Action for Failure to Provide Complete and Accurate Itemized Wage Statements</u>:

n. For recovery as authorized by Labor Code section 226(e);

o. For an award of costs and reasonable attorneys' fees pursuant to Labor Code section 226, subdivision (e) and/or subdivision (g);

<u>As to the Seventh Cause of Action for Violations of Labor Code section 203</u>:

p. For recovery as authorized by Labor Code section 203;

<u>As to the Eighth Cause of Action for Unfair Business Practices</u>:

q. For an accounting, under administration of Plaintiff and/or the receiver and subject to Court review, to determine the amount to be returned by Defendants, and the amounts to be refunded to members of the Classes who are owed monies by Defendants;

r. For an Order requiring Defendants to identify each of the members Classes by name, home address, and home telephone number;

s. For an Order requiring Defendants to make full restitution and payment pursuant to California law;

t. For the creation of an administrative process wherein each injured member of the Classes may submit a claim in order to receive his/her money;

u. For all other appropriate injunctive, declaratory and equitable relief;

v. For interest to the extent permitted by law;

w. For an award of attorneys' fees and costs incurred in the investigation, filing and prosecution of this action pursuant to Code of Civil Procedure section 1021.5, Business & Professions Code section 17200, *et seq*., Labor Code section 1194 and/or any other applicable provision of law;

<u>As to the Ninth Cause of Action for Violation of PAGA</u>:

For all civil penalties authorized by Labor Code section 2698, *et seq*.;

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x. For civil penalties under Labor Code section 226.3 in the amount two hundred fifty dollars ($250) per aggrieved employee for the first violation, and one thousand dollars ($1,000) per aggrieved employee for each subsequent violation;

y. For civil penalties under Labor Code section 210 in the amount of one hundred dollars ($100.00) for each aggrieved employee for each initial violation that was neither willful nor intentional, and two hundred dollars ($200.00) for each aggrieved employee, plus twenty-five percent (25%) of the amount unlawfully withheld from each aggrieved employee, for each subsequent violation, regardless of whether the subsequent violation was willful or intentional;

z. For civil penalties under Labor Code section 2699(f), for Labor Code violations without a specific civil penalty, in the amount of one hundred dollars ($100.00) for each aggrieved employee per pay period for each initial violation and two hundred dollars ($200.00) for each aggrieved employee per pay period for each subsequent violation;

aa. For civil penalties under Labor Code section 558, as follows: (1) for an initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid; and (2) for each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid;

bb. For an award of reasonable attorneys' fees and costs pursuant to Labor Code section 2699(g)(1), or other applicable laws, and pre-judgment and post-judgment interest as provided by law;

<u>As to All Causes of Action:</u>

cc. For such relief as this Court may deem just and proper, including reasonable attorneys' fees and costs incurred.

DATED: July 25, 2025 BOUCHER LLP

By: ______________________________
RAYMOND P. BOUCHER
ALEXANDER GAMEZ

Attorneys for Plaintiff Idania Soberanis

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all claims alleged in Plaintiff's Complaint to the fullest extent authorized by law.

DATED: July 25, 2025

BOUCHER LLP

By: ______________________

RAYMOND P. BOUCHER
ALEXANDER GAMEZ

Attorneys for Plaintiff Idania Soberanis

BOUCHER LLP
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EXHIBIT 1

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May 12, 2025

ELECTRONICALLY FILED

Attn: PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, California 94612
https://dir.tfaforms.net/308

VIA CERTIFIED MAIL

SD Pollo Inc.
c/o Agent for Service of Process
Attn: Phong Huynh
6035 Rainbow Heights Road
Fallbrook, CA 92028

Re: *Soberanis v. SD Pollo Inc, et al.*
Notice Regarding Private Attorneys General Act of 2004 Claim

To Whom It May Concern:

Pursuant to section 2699.3 of the California Labor Code Private Attorneys General Act of 2004 ("PAGA" or "the Act") (Lab. Code § 2698 *et seq*.), this letter shall serve as written notice of claims for civil penalties that will be pursued by Ms. Idania Soberanis as proxy for the Labor and Workforce Development Agency ("LWDA") on behalf of all non-exempt aggrieved employees employed by SD Pollo Inc. ("SDPI") in California during the statutory period, against SDPI.

SDPI is an El Pollo Loco franchisee that owns and operates over 30 locations in California. Ms. Soberanis was employed as a non-exempt manager at SDPI's Vista location at is San Marcos location as well, from approximately 2022 to February 5, 2025. Pursuant to California law, SDPI was at all relevant times has been Ms. Soberanis' employer during the statutory period.

In her representative action, Ms. Soberanis will seek civil penalties pursuant to PAGA as a result of SDPI's failure to: (1) compensate for all hours worked, including overtime (Lab. Code §§ 204, 510, 1194, 1197, 1198); (2) provide proper meal periods and/or premium pay for non-compliant meal periods (Lab. Code §§ 226.7, 512, 558, 1198, 1199); (3) provide proper rest periods and/or premium pay for non-compliant rest periods (Lab. Code §§ 226.7, 558, 1197, 1198, 1199); (4) indemnify for business expenses (Lab. Code § 2802); (5) furnish complete and accurate itemized wage statements (Lab. Code § 226(a)); and (6) timely pay all wages due within the time permitted upon separation of employment (Lab. Code §§ 201-203).

<u>FAILURE TO PAY HOURLY AND OVERTIME WAGES</u>

(Labor Code §§ 204, 510, 1194, 1197, 1198, and 2699)

Labor Code section 204 states that "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period."

Pursuant to Labor Code section 510, non-exempt employees are entitled to 1.5 times their hourly rate of pay for any work performed in excess of 8 hours in a day or any work performed in excess of 40 hours per week, and twice their regular hourly rate for any work performed past 12 hours in one day or past 8 hours on the seventh consecutive day.

Labor Code section 1194(a) states, "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

Labor Code section 1197 states, in pertinent part, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than minimum wage so fixed is unlawful."

Labor Code section 1198 states, in pertinent part, "The employment of any employee… under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

In relevant part, Section 4 of the applicable Wage Order states that, "Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise."

In conjunction, the provisions of the applicable Wage Order and Labor Code require employers to pay non-exempt employees no less than their agreed upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" when the employer knows or reasonably should know that employees are working during those hours. *Morillion v. Royal Packing Co*. (2000) 22 Cal.4th 575, 585.

Upon information and belief, during Ms. Soberanis' employment, SDPI failed and fails to compensate her and aggrieved employees for all hours worked and overtime hours worked after eight hours in a day and/or after forty hours in a week due to SDPI's policy and practice of requiring Ms. Soberanis and aggrieved employees to continue performing work-related tasks after clocking out of their shifts. Such work-related tasks include but are not limited to, cleaning and prepping the kitchen for upcoming shifts of other employees.

Additionally, Ms. Soberanis and aggrieved employees were instructed by the SDPI to work off the clock on Saturdays by driving their own personal vehicle to privately catered events at hospitals, schools, homes, etc. Ms. Soberanis and aggrieved employees were not compensated for the time spent working on those days.

Accordingly, Ms. Soberanis, on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §§ 226.7, 512(a), 558, 1198, 2699, and the "Meal Periods" Section of the Applicable Wage Order)

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission"

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a meal period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Labor Code section 512(a) states, in pertinent part, "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes… [a]n employer may not employ an employee for a work period of more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and employee only if the first meal period was not waived."

Labor Code section 1198 states, in pertinent part, "The employment of any employee… under conditions of labor prohibited by the [Wage Order] is unlawful."

In relevant part, Section 2 of the applicable Wage Order states that, "Hours worked means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work."

Section 11 of the applicable Wage Order provides that:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on-duty" meal period and counted as time worked. An "on-duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employer's regular rate of compensation for each workday that the meal period is not provided.

Upon information and belief, SDPI failed and fails to provide Ms. Soberanis and aggrieved employees with compliant thirty minute off-duty meal periods for work periods and failed to pay them premium wages at their regular rates of pay thereto. For example, Ms. Soberanis was rarely able to take a meal period and in the rare event that Ms. Soberanis was able to take onet was often interrupted or cut short due to the demands of the restaurant.

Accordingly, Ms. Soberanis, on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

<u>FAILURE TO PROVIDE REST PERIODS</u>

(Labor Code §§ 226.7, 1197, 1198, 2699, and the "Rest Periods" Section of the Applicable Wage Order)

Labor Code section 1198 states, in pertinent part, "The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 226.7(b) states, in pertinent part, "An employer shall not require an employee to work during meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission."

Pursuant to *Augustus v. ABM Security Services, Inc.*, (2017) 2 Cal.5th 257, 260, "[d]uring required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time."

Labor Code section 226.7(c), provides that if an employer fails to provide an employee a rest period in accordance with statute or an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

Section 12 of the applicable Wage Order provides that:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensations for each workday that the rest period is not provided.

Upon information and belief, SDPI's policies and practices failed and fails to provide Ms. Soberanis and aggrieved employees with off-duty rest periods of at least ten minutes for each four hour work period, or major fraction thereof, and failed and fail to pay them a premium wage at their regular rates of pay on workdays they failed to provide them with an opportunity to take rest periods. Ms. Soberanis and aggrieved employees typically worked and work eight hours per day, and SDPI's policies and practices routinely prevented and prevent them from taking the off-duty ten-minute rest breaks they are entitled to by making Ms. Soberanis and other aggrieved employees either miss their rest periods altogether, work through their rest periods, take untimely rest periods, or take shortened rest periods.

Accordingly, Ms. Soberanis, on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

<u>FAILURE TO REIMBURSE BUSINESS EXPENSES</u>
(Labor Code § 2802)

In pertinent part, Labor Code section 2802(a) states that, "An employer shall indemnify his or her employee(s) for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties. At relevant times during the statutory period, Defendants required Mr. Galindo Ramirez and aggrieved employees to incur business expenses which Defendants failed and/or refused to reimburse them for. For example, Ms. Soberanis and aggrieved employees were instructed by SDPI, to work off the clock on Saturdays by driving their own personal vehicle to hospitals, schools, homes, etc. for private catered events, without being fully compensated for the use and mileage of their vehicles.

Accordingly, Ms. Soberanis, on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(Labor Code §§ 226, 226.3, and 2699)

Labor Code section 226(a) requires an employer to provide an employee with an accurate itemized wage statement that shows: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece-rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is pay; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate by the employee.

For violations of Labor Code section 226(a), Labor Code section 226.3 imposes a civil penalty on any employer that violates section 226(a) in the amount of $250.00 per employee per violation in an initial citation and $1,000.00 per employee for each subsequent violation. The civil penalties provided for in Labor Code section 226.3 are in addition to any other penalty provided by law.

Ms. Soberanis and aggrieved employees were and continue to be furnished with inaccurate itemized wage statements during the statutory period. For example, Ms. Soberanis' wage statements are incorrect by virtue of the total hours including PTO hours. Moreover, as a result of the alleged violations discussed above, SDPI furnished wage statements to Ms. Soberanis and aggrieved employees that failed to correctly show, among other items: (1) gross wages earned, (2) all deductions, and (3) net wages earned.

Accordingly, Ms. Soberanis on behalf of aggrieved employees, will seek to recover available civil penalties for violations of Labor Code 226(a).

FAILURE TO TIMELY PAY WAGES UPON SEPARATION OF EMPLOYMENT
(Labor Code §§ 201, 202, 203, and 2699)

Labor Code section 201 states, in pertinent part, "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

Labor Code section 202 states, in pertinent part, "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code section 203 provides that an employee's wages shall continue as a penalty from when they first become due at the same rate until paid for up to 30 days when an employer willfully fails to timely pay all earned and unpaid wages in accordance with Labor Code section 201 or 202.

Upon information and belief, SDPI willfully failed and fails to provide aggrieved employees all wages due and owed upon separation of employment. By furnishing aggrieved employees with a final check that failed to include all earned and owed minimum wages and overtime, and meal and rest period premiums – as described above, SDPI violated Labor Code sections 201 or 202.

Accordingly, Ms. Soberanis on behalf of aggrieved employees, will pursue civil penalties and all available remedies to the extent allowed by law for the alleged violations.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code § 558)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558), or any provision regulating the hours and days in any IWC Wage Order, to a civil penalty in the amount of $50 for any initial violation for each pay period in which an employee is underpaid, and $100 for each subsequent violation.

As set forth above, SDPI failed to pay all overtime compensation and provide Ms. Soberanis and aggrieved employees compliant meal periods and/or rest periods and failed to pay premium wages owed. Accordingly, Ms. Soberanis, on behalf of aggrieved employees, will seek to recover civil penalties under Labor Code section 558.

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CONCLUSION

The allegations set forth herein are supported by, among other things, records and documents from Ms. Soberanis' employment with SDPI, including but not limited to wage statements and Ms. Soberanis' confirmation of SDPI's unlawful practices and policies. As a result of the foregoing violations, Ms. Soberanis is entitled to file a Complaint and invoke the protections of the Act. Ms. Soberanis has placed SDPI on notice by mailing a certified copy of this notice to their corporate headquarters and/or authorized agents.

Very truly yours,

BOUCHER LLP

By: ______________________________
Alexander Gamez, Esq.

cc via email:
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