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E-FILED
1/3/2023 5:26 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
23CV409445
Reviewed By: R. Walker

Attorneys for Plaintiff Higinio Alvarez

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

HIGINIO ALVAREZ, as an aggrieved employee pursuant to the Private Attorneys General Act ("PAGA"), on behalf of the State of California and other non-party Aggrieved Employees,

Plaintiff,

vs.

CEC ENTERTAINMENT, LLC, a Texas limited liability company; CEC ENTERTAINMENT, INC., a Kansas corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 23CV409445

COMPLAINT – PAGA ENFORCEMENT ACTION

(1) Claim for Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

Plaintiff Higinio Alvarez, as an aggrieved employee and on behalf of the State of California and all other non-party Aggrieved Employees, alleges as follows:

JURISDICTION AND VENUE

1. This is an enforcement action under the Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.* ("PAGA") to recover civil penalties and any other available relief on behalf of Plaintiff, the State of California, and other current and former employees who worked for Defendants in California as a non-exempt, hourly paid employee and received at least one wage statement and against whom one or more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating hours and days of work in the applicable Industrial Welfare Commission ("IWC") Wage Order were committed, as set forth in this complaint, at any time between one year prior to the filing of the pre-filing written notice to the Labor and Workforce Development Agency ("LWDA") in this case on October 26, 2022, until judgment ("non-party Aggrieved Employees"). Plaintiff's share of civil penalties sought in this action does not exceed $75,000.

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

3. This Court has jurisdiction over all Defendants because, on information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail 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. There is no basis for federal diversity jurisdiction in this action given that the State of California, as the real party in interest in this action, is not a "citizen" for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action, and that diversity jurisdiction cannot be established when Plaintiff's share of the

civil penalties attributable to violations personally suffered are less than $75,000. *Id*. at 1122.

4. Venue is proper in this Court because Defendants employ or employed persons within the County of Santa Clara and have violated the requirements of the California Labor Code and applicable IWC Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and applicable IWC Wage Order in at least three locations within the County of Santa Clara, including Defendants' restaurants located in Cupertino (19805 Stevens Creek Boulevard, Cupertino, California 95014); Gilroy (910 Renz Lane, Gilroy, California 95020); and San Jose (2445 Fontaine Road, San Jose, California 95121). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in Santa Clara County, and Plaintiff could bring an action filed under PAGA in any county in which an aggrieved employee worked and Labor Code violations occurred, venue is proper. *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal. App. 5th 1069 (2021).

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

THE PARTIES

6. Plaintiff Higinio Alvarez is a resident of Harbor City, in Los Angeles County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately September 2021 to June 2022. Plaintiff worked as a Cast Member for Defendants at their restaurant located in Torrance, California. Plaintiff typically worked four (4) or more hours per day, five (5) or more days per week. At the time Plaintiff's employment with Defendants ended, he was compensated approximately $15.00 per hour. Plaintiff's job duties included, without limitation, preparing food items, ensuring all games were clean and operational, and attending to customers.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute an arbitration agreement at the time of their hire or during their employment. On further information and belief, Defendants' arbitration agreement was and is both procedurally and substantively unconscionable. Specifically, Defendants presented employees with an "Arbitration Agreement" during the onboarding process, which had to be reviewed and acknowledged immediately. Specifically, the Arbitration Agreement was one of several documents presented to new employees for signature during the orientation process, including the Cast Member – Kid Check Compliance; Merchandise Safety (Cast Members); Sexual Harassment Acknowledgment; Play Pass Compliance Procedure and Acknowledgment; and Chuck E. Cheese Rewards Program Compliance Procedure and Acknowledgment, among other documents. Also, employees did not have a meaningful opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants' employees for them to sign on a take-it or leave-it basis, along with all of the other on-boarding documents.

8. CEC ENTERTAINMENT, LLC was and is, upon information and belief, a Texas limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California.

9. CEC ENTERTAINMENT, INC. was and is, upon information and belief, a Kansas corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California.

10. Plaintiff is unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the complaint and serve such fictitiously named Defendants once their names and capacities become known.

11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of CEC ENTERTAINMENT, LLC and CEC ENTERTAINMENT, INC. at all relevant times.

12. Plaintiff is informed and believes, and thereon alleges, that each and all of the

acts and omissions alleged herein was performed by, or is attributable to, CEC ENTERTAINMENT, LLC; CEC ENTERTAINMENT, INC.; and/or DOES 1 through 10 (collectively, “Defendants” or “CEC”), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity with legal authority to act on the others’ behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy of Defendants.

13. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

14. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

15. Under California law, Defendants are jointly and severally liable as employers for the violations alleged herein because they have each exercised sufficient control over the wages, hours, working conditions, and employment status of Plaintiff and other non-party Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-party Aggrieved Employees, supervised and controlled their work schedule and/or conditions of employment, determined their rate of pay, and maintained their employment records. Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a common-law employment relationship. As joint employers of Plaintiff and other non-party Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties available to Plaintiff and other non-party Aggrieved Employees under the law.

16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times, Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other non-party Aggrieved Employees because Defendants have:

(a) jointly exercised meaningful control over the work performed by Plaintiff and other non-party Aggrieved Employees;

(b) jointly exercised meaningful control over Plaintiff's and other non-party Aggrieved Employees' wages, hours, and working conditions, including the quantity, quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiff and other non-party Aggrieved Employees;

(c) jointly required that Plaintiff and other non-party Aggrieved Employees perform work which is an integral part of Defendants' businesses; and

(d) jointly exercised control over Plaintiff and other non-party Aggrieved Employees as a matter of economic reality in that Plaintiff and other non-party Aggrieved Employees were dependent on Defendants, who shared the power to set the wages of Plaintiff and other non-party Aggrieved Employees and determined their working conditions, and who jointly reaped the benefits from the underpayment of their wages and noncompliance with other statutory provisions governing their employment.

17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times there has existed a unity of interest and ownership between Defendants such that any individuality and separateness between the entities has ceased.

18. CEC ENTERTAINMENT, LLC; CEC ENTERTAINMENT, INC.; and/or DOES 1 through 10 are therefore alter egos of each other.

19. Adherence to the fiction of the separate existence of Defendants would permit an abuse of the corporate privilege, and would promote injustice by protecting Defendants from liability for the wrongful acts committed by them under the name CEC.

20. Plaintiff further alleges, upon information and belief, that the Defendants CEC ENTERTAINMENT, LLC and CEC ENTERTAINMENT, INC. are alter egos of each other for the following reasons:

(a) On the California Secretary of State's website (https://bizfileonline.sos.ca.gov), CEC ENTERTAINMENT, LLC and CEC ENTERTAINMENT, INC. have the same principal and mailing address, which is "1707 Market Place, Suite 200, Irving, Texas 75063";

(b) According to the most recent "Statement of Information" forms filed with the California Secretary of State, CEC ENTERTAINMENT, LLC and CEC ENTERTAINMENT, INC. share common officers, including Chief Executive Officer, David McKillips;

(c) On the California Secretary of State's website, CEC ENTERTAINMENT, LLC and CEC ENTERTAINMENT, INC. share the same agent for service of process, "CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC – LAWYERS INCORPORATING SERVICE"; and

(d) On information and belief, CEC ENTERTAINMENT, LLC and CEC ENTERTAINMENT, INC. utilize the same standardized employment forms and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

21. Defendants own and operate approximately 72 "Chuck E. Cheese" or "Peter Piper Pizza" restaurant locations in California. Upon information and belief, Defendants maintain a single, centralized Human Resources (HR) department at their corporate headquarters in Irving, Texas, for all non-exempt, hourly paid employees working for Defendants in California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants' company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

22. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level

and implemented them company-wide, regardless of their employees' assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee's time of hire.

23. Upon information and belief, Defendants maintain a centralized Payroll department at their corporate headquarters in Irving, Texas, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiff and other non-party Aggrieved Employees. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State of California, regardless of the manner in which each employee's employment ends.

24. Defendants continue to employ non-exempt or hourly paid employees in California.

25. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants were advised by skilled lawyers and other professionals, employees and advisors knowledgeable about California labor and wage law, employment and personnel practices, and about the requirements of California law.

26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other non-party Aggrieved Employees were not paid for all hours worked because all hours worked were not recorded.

27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation.

28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that other non-party Aggrieved Employees were entitled to be paid at a regular rate of pay, and corresponding rates of pay for overtime wages and/or meal and rest

period premiums, that included as eligible income all renumeration required by law, including but not limited to, all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of compensation, but failed to include all forms of remuneration in calculating the regular rate of pay for other non-party Aggrieved Employees.

29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for work that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at least minimum wages for work done off-the-clock.

30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to meal periods in accordance with the California Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other non-party Aggrieved Employees were not provided with all meal periods or payment of one (1) additional hour of pay at their regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to rest periods in accordance with the California Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to take compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved Employees with payment of one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period.

32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

should have known that Plaintiff and other non-party Aggrieved Employees were entitled to receive complete and accurate wage statements in accordance with California law. In violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not provided complete and accurate wage statements.

33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that they had a duty to maintain accurate and complete payroll records in accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and intentionally failed to do so.

34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to timely payment of wages during their employment. In violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within permissible time periods.

35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to timely payment of all wages earned upon termination of employment. In violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages due, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, within permissible time periods.

36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other non-party Aggrieved Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere with the performance of their duties and also have seats nearby to use during a lull in tasks that do require moving about or standing. In violation of the California Labor Code and applicable IWC Wage Order, Defendants failed to provide Plaintiff and other non-party Aggrieved Employees with suitable seating.

37. Plaintiff is informed and believes, and thereon alleges, that at all times herein

mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees that they were properly denied wages, all in order to increase Defendants' profits.

38. At all times herein set forth, PAGA provides that any provision of law under the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

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

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

41. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have been met:

(a) The aggrieved employee shall give written notice by online filing (hereinafter "Employee's Notice") to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

(b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(a) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars ($75).

(c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee's Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee's Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

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

(a) The aggrieved employee or representative shall give written notice by online filing to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated (other than those listed in Section 2699.5), including the facts and theories to support the alleged violation.

(b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars ($75).

(c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice. The employer shall give written notice by certified mail within that period of time to the aggrieved employee or representative and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employee may commence a civil action pursuant to Section 2699.

43. On October 26, 2022, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee of seventy-five dollars ($75). The LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-916105-22. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated October 26, 2022, is attached hereto as "Exhibit 1."

44. As of the filing date of this complaint, over 65 days have passed since Plaintiff sent the written notice described above, and the LWDA has not responded that it intends to investigate Plaintiff's claims, and Defendants have not cured the violations.

45. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, and 1198.

46. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties under Labor Code section 558 for himself, all other non-party Aggrieved Employees, and the State of

California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC Wage Order. Plaintiff, acting in the public interest as a private attorney general, does not seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable IWC Wage Order.

47. Defendants, at all times relevant to this complaint, were employers or persons acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved Employees' rights by violating various sections of the California Labor Code as set forth above.

48. As set forth below, Defendants have violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

49. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other non-party Aggrieved Employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, and 1198.

FIRST CAUSE OF ACTION

For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq*.

(Against all Defendants)

50. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

51. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, and 1198. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor Code

sections not found in section 2699.5, including sections 516 and 1182.12.

52. Defendants' conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

(a) Violation of Labor Code sections 510 and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and other non-party Aggrieved Employees with all required overtime pay, as set forth below;

(b) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable IWC Wage Order for Defendants' failure to include all forms of remuneration in the "regular rate" of pay as required by law for purposes of paying overtime wages and/or meal and rest period premiums to other non-party Aggrieved Employees, as set forth below;

(c) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the applicable IWC Wage Order for Defendants' failure to compensate Plaintiff and other non-party Aggrieved Employees with at least minimum wages for all hours worked, as set forth below;

(d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to provide Plaintiff and other non-party Aggrieved Employees with meal periods, as set forth below;

(e) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order for Defendants' failure to authorize and permit Plaintiff and other non-party Aggrieved Employees to take rest periods, as set forth below;

(f) Violation of Labor Code sections 226(a) and 1198, and the applicable IWC Wage Order for failure to provide accurate and complete wage statements to Plaintiff and other non-party Aggrieved Employees, as set forth below;

(g) Violation of Labor Code sections 1174(d) and 1198, and the applicable IWC Wage Order for failure to maintain payroll records, as set forth below;

(h) Violation of Labor Code sections 204 for failure to pay all earned wages during employment, as set forth below;

(i) Violation of Labor Code section 201 and 202 for failure to pay all earned wages upon termination, as set forth below; and

(j) Violation of Labor Code section 1198 and the applicable IWC Wage Order for failing to provide suitable seating to Plaintiff and other non-party Aggrieved Employees, as set forth below.

FAILURE TO PAY OVERTIME

VIOLATION OF LABOR CODE SECTIONS 510 AND 1198

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

54. California Labor Code section 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

55. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and other non-party Aggrieved Employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

56. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve

(12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

57. California Labor Code section 510 codifies the right to overtime compensation at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh (7th) day of work.

58. During the relevant time period, Defendants willfully failed to pay all overtime wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not recorded.

59. First, during the relevant time period, Defendants had, and continue to have, a company-wide policy and/or practice requiring Plaintiff and other non-party Aggrieved Employees to perform various work-related tasks while off-the-clock before their shifts. For example, due to Defendants' practice of scheduling some shifts outside of daytime business hours, Plaintiff and other non-party Aggrieved Employees could only enter Defendants' restaurants to clock in when other managerial or keyholder employees were available to open the doors. For example, on about five (5) occasions, after reporting to work on time, Plaintiff was forced to wait up to 30 minutes until a managerial employee arrived at the restaurant, before being able to enter Defendants' restaurant and clock in because there was no one available for him to open the doors for him. As a result, Plaintiff and other non-party Aggrieved Employees received no compensation for this time they remained under Defendants' control.

60. Moreover, Defendants' timekeeping system prevented Plaintiff and other non-party Aggrieved Employees from recording all hours worked, because the system locked out

Plaintiff and other non-party Aggrieved Employees and would not permit them to clock in for the start of their shifts unless they had clocked in exactly at their scheduled shift-start time. For instance, on some occasions, Plaintiff would arrive to work after his scheduled shift-start time, but due to Defendants' timekeeping system, Plaintiff was required to wait up to 10 minutes off-the-clock, until a managerial employee became available to override the system lockout and allow him to clock in. Thus, Defendants' timekeeping system prevented Plaintiff and other non-party Aggrieved Employees from recording all hours worked when they did not report to work exactly at their scheduled shift start-time.

61. Second, Defendants had, and continue to have, a company-wide policy and/or practice of requiring Plaintiff and other non-party Aggrieved Employees to perform tasks off-the-clock after their shifts. For example, approximately once per month, Plaintiff would clock out at the end of his shift, but Defendants' managers required him to continue working before he could leave for the day, completing tasks such as repairing arcade game machines and attractions, cleaning, and putting kitchen equipment away. Thus, Defendants failed to track all of the time that employees spent performing work-related tasks outside of their shifts, and Plaintiff and other non-party Aggrieved Employees received no compensation for this time.

62. Third, Defendants had, and continue to have, a company-wide security policy and/or practice of requiring closing shift employees to leave the restaurant premises together in pairs and/or groups. Specifically, Defendants' Employee Handbook states, in pertinent part, that: "the following are security procedures that must always be followed to ensure your safety and the safety of your co-workers. No one is allowed to be in the restaurant alone. . . ." and suggests that employees walk to vehicles in pairs. In adherence with Defendants' written policy, after clocking out at the end of their shifts, Plaintiff and other non-party Aggrieved Employees were required to wait for other employees to complete their own duties before they were released by a managerial employee and could leave Defendants' premises together. For example, Plaintiff would sometimes clock out at the end of his shift, and then have wait up to five (5) minutes until his supervisor had completed his or her closing tasks and locked up the restaurant premises, before being released and able to leave the premises. As a result, Plaintiff

and other non-party Aggrieved Employees were subject to Defendants' control after they had clocked out for their shifts, but were not compensated for this time.

63. Fourth, Defendants had, and continue to have, a company-wide policy and/or practice of strictly staffing their restaurant locations based on the labor hours allocated by each location's labor or payroll budget set by corporate. Defendants' uniform use of labor budgets, combined with the assignment of heavy workloads, has resulted in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload and customer demand. Defendants also had a practice of failing to schedule meal periods, which further caused Plaintiff and other non-party Aggrieved Employees to not be relieved of their duties for compliant meal periods. For example, Plaintiff worked through his meal periods approximately once per week in order to keep up with customer demand and complete his duties. Because Defendants did not employ or staff a sufficient number of employees to meet customer demand, there was no one available to relieve employees needing meal period coverage, and Plaintiff and other non-party Aggrieved Employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Consequently, Plaintiff and other non-party Aggrieved Employees were required to work through and had their unpaid meal periods interrupted in order to complete their assigned duties and handle customer demand, time for which they were not paid.

64. Moreover, because Defendants frowned upon employees accruing meal period penalties, Defendants pressured employees to clock out for meal periods, even when they did not receive a compliant meal period. Consequently, Plaintiff and other non-party Aggrieved Employees performed work during meal periods for which they were not paid. Alternatively, on information and belief, Defendants' timekeeping system prevented Plaintiff and other non-party Aggrieved Employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Plaintiff and other non-party Aggrieved Employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period until 30 minutes had elapsed. Thus, Defendants' timekeeping policies and/or practices further prevented Plaintiff and other non-party

Aggrieved Employees from recording all hours worked when their meal periods were missed, shortened, and/or interrupted.

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

66. Furthermore, Defendants did not pay other non-party Aggrieved Employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, Defendants paid other non-party Aggrieved Employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, Defendants failed to incorporate all remunerations, including incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other non-party Aggrieved Employees worked overtime and received these other forms of pay, Defendants failed to pay all overtime wages by paying a lower overtime rate than required.

67. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees the balance of overtime compensation as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PAY MINIMUM WAGES

VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198

68. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage

to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

69. As stated above, Defendants had company-wide policies and/or practices requiring Plaintiff and other non-party Aggrieved Employees to perform various work-related tasks while off-the-clock before and after their shifts, including waiting for a managerial or keyholder employee to arrive and open Defendants' restaurants, waiting to clock in because the timekeeping system had locked them out, repairing arcade machines after clocking out, and waiting to leave the premises in pairs. Thus, Defendants failed to track this time Plaintiff and other non-party Aggrieved Employees spent working off-the-clock, Plaintiff and other non-party Aggrieved Employees received no compensation for this time.

70. Additionally, as set forth above, due to Defendants' uniform use of labor budgets, understaffing, assignment of heavy workloads, failure to schedule meal periods, and subsequent lack of meal period coverage, Plaintiff and other non-party Aggrieved Employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work during their meal periods, time for which they were not paid. Furthermore, as stated above, in order to limit meal penalties that Defendants would otherwise owe, Defendants pressured Plaintiff and other non-party Aggrieved Employees to clock out for meal periods, even when they did not receive a compliant meal period. Alternatively, as set forth above, on information and belief, Defendants systematically failed to pay Plaintiff and other non-party Aggrieved Employees for actual hours worked during unpaid meal periods, because Defendants' timekeeping system locked out Plaintiff and other non-party Aggrieved Employees for 30 minutes when they clocked out for a meal period. Combined, these practices prevented Plaintiff and other non-party Aggrieved Employees from recording all hours worked when their meal periods were missed, shortened, and/or interrupted, time for which they were not paid.

71. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, Defendants did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1198.

72. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

FAILURE TO PROVIDE AND RECORD MEAL PERIODS

VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198

73. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and non-party Aggrieved Employees' employment by Defendants.

74. At all relevant times herein set forth, California Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

75. At all relevant times herein set forth, California Labor Code sections 226.7, 512(a), 516, and 1198 provide that no employer shall require an employee to work during any meal period mandated by an applicable order of the IWC.

76. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the

total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

77. As stated above, Defendants had, and continue to have, company-wide policies and/or practices of understaffing their locations due to labor budgeting and/or limited payroll allocation, which, combined with heavy workloads and a failure to schedule meal periods, has resulted in a lack of meal period coverage and prevented Plaintiff and other non-party Aggrieved Employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, Plaintiff and other non-party Aggrieved Employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Plaintiff was required to take his meal period late, after having worked in excess of five (5) hours into his shift, due to the lack of coverage and in order to meet Defendants' expectations.

78. Additionally, as stated, because Defendants frowned upon employees accruing meal period penalties, Defendants' management pressured Plaintiff and other non-party Aggrieved Employees to clock out for meal periods, regardless of whether they had received a compliant meal period. For example, Plaintiff was required to clock out for his meal period to record that he had received compliant meal periods on shifts when he had not, in fact, received these timely meal periods.

79. Furthermore, as stated, Defendants' company-wide timekeeping system prevented Plaintiff and other non-party Aggrieved Employees from recording when their meal periods were shortened or interrupted, because the system locked out Plaintiff and other non-party Aggrieved Employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. For example, about three (3) times per month, Plaintiff's meal periods were interrupted and shortened by 5-10 minutes in order to assist his coworkers with repairing arcade game machines and to keep up with customer demand.

80. Moreover, Defendants did not provide other non-party Aggrieved Employees

with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

81. Defendants knew or should have known that as a result of their policies and practices, Plaintiff and other non-party Aggrieved Employees were not actually relieved of all duties to take timely, uninterrupted meal periods. Defendants further knew or should have known that they did not pay Plaintiff and other non-party Aggrieved Employees all meal period premiums when meal periods were missed, late, short, and/or interrupted.

82. Furthermore, Defendants engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not received premium pay for missed, late, shortened, and interrupted meal periods. Alternatively, to the extent that Defendants did pay Plaintiff and other non-party Aggrieved Employees premium pay for missed, late, shortened, and interrupted meal periods, Defendants did not pay other non-party Aggrieved Employees the correct rate of pay for premiums because Defendant systematically failed to include all forms of compensation such as incentive pay and/or nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

83. Defendants' conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO AUTHORIZE AND PERMIT REST PERIODS

VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198

84. At all relevant times herein set forth, the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other non-party Aggrieved Employees' employment by Defendants.

85. At all relevant times, the applicable IWC Wage Order provides that "[e]very

employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

86. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

87. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not authorized and permitted.

88. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, Defendants' company-wide practices of labor budgeting and/or limited payroll allocation, understaffing, and assignment of heavy workloads, resulted in a lack of rest period coverage and prevented Plaintiff and other non-party Aggrieved Employees from being relieved of all duty in order to take compliant rest periods. Additionally, Defendants also failed to schedule rest periods, which, coupled with Defendants' failure to provide adequate rest period coverage, further led to Plaintiff and other non-party Aggrieved Employees not being authorized and permitted to take rest periods.

89. Furthermore, upon information and belief, Defendants maintained a company-

wide on-premises rest period policy, which mandated that Plaintiff and other non-party Aggrieved Employees remain on Defendants' premises during their rest periods. Because Plaintiff and other non-party Aggrieved Employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, Defendants effectively maintained control over Plaintiff and other non-party Aggrieved Employees during rest periods.

90. As a result, Plaintiff and other non-party Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, approximately five (5) to eight (8) times during his employment, Plaintiff had to forego his rest periods because the restaurant was busy, did not have coverage, and there was an expectation for all employees to work through their rest periods. When Plaintiff was able to take his rest periods, they were often interrupted in order to assist with cleaning tables or repairing arcade game machines.

91. Defendants have also engaged in a systematic, company-wide practice and/or policy of not paying rest period premiums owed when rest periods are not authorized and permitted. Because Defendants frowned upon employees accruing rest period penalties, Defendants pressured Plaintiff and other non-party Aggrieved Employees to falsify the time rest periods were taken and/or adjusted employee records to reflect compliant and/or timely rest periods, regardless of whether Plaintiff and other non-party Aggrieved Employees had received a compliant rest period at that time or not, in order to strictly limit rest period penalties that Defendants would otherwise owe. Moreover, Defendants' company-wide timekeeping system prevented Plaintiff and other non-party Aggrieved Employees from recording when their rest periods were shortened or interrupted, because the system locked out Plaintiff and other non-party Aggrieved Employees once they "clocked out" for a rest period, and would not permit them to "clock back in" from a rest period before 10 minutes had elapsed.

92. Defendants have also engaged in a company-wide practice and/or policy of not

paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not received all premium pay for missed rest periods. Alternatively, to the extent that CEC did pay other non-party Aggrieved Employees one (1) additional hour of premium pay for missed rest periods, Defendants did not pay other non-party Aggrieved Employees at the correct rate of pay for premiums because Defendants failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

93. Accordingly, Defendants failed to authorize and permit all compliant rest periods and failed to pay the full rest period premiums due. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS

VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198

94. At all relevant times herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate and complete itemized wage statement in writing, including, but not limited to, the name and address of the legal entity that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable rates of pay.

95. During the relevant time period, Defendants have knowingly and intentionally provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

96. Because Defendants did not record the time Plaintiff and other non-party Aggrieved Employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and other non-party Aggrieved Employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and other non-party Aggrieved Employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

97. Additionally, because Defendants did not calculate other non-party Aggrieved Employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, Defendants did not list the correct amount of gross wages in compliance with section 226(a)(1) and did not list the correct amount of net wages in violation of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

98. The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

99. California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the

plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a $500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-party Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

100. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Defendants engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Plaintiff and other non-party Aggrieved Employees in violation of section 1198. Furthermore, in light of Defendants' failure to other non-party Aggrieved Employees with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

101. Defendants' conduct violates California Labor Code 226(a), 1174(d), and 1198. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

FAILURE TO PAY WAGES DURING EMPLOYMENT

VIOLATION OF LABOR CODE SECTION 204

102. At all relevant times herein set forth, California Labor Code section 204

requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed. Labor Code section 204 further provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

103. At all relevant times herein, California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

104. During the relevant time period, Defendants willfully failed to pay Plaintiff and other non-party Aggrieved Employees all wages due to them within any time period specified by California Labor Code section 204 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums.

105. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

FAILURE TO PAY WAGES UPON TERMINATION

VIOLATION OF LABOR CODE SECTIONS 201 AND 202

106. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

107. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved Employees who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

108. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and (g).

FAILURE TO PROVIDE SUITABLE SEATING

VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 11050(14)(A)

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

110. California Code of Regulations, Title 8, section 11050(14)(A) provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats."

111. Defendants' California restaurants are generally similar in their layout and design and there was, and continues to be, space behind host stands, such as the Kid Check stand, to allow for the presence and use of a seat or stool by other Plaintiff and other non-party Aggrieved Employees (with reasonable or no modification to these work areas) during the performance of their work duties. Defendants could provide Plaintiff and other non-party

Aggrieved Employees with a seat or stool at their host stands, but instead deny employees seating and force Plaintiff and other non-party Aggrieved Employees to stand throughout the day.

112. Plaintiff and other non-party Aggrieved Employees spent a substantial portion of their day behind or at these host stands. The nature of the work of an employee performing host duties at host stands can reasonably be accomplished from a seated position. However, as set forth herein, Defendants systematically, and on a company-wide basis, do not provide seats or stools at or near the host stands, forcing Plaintiff and other non-party Aggrieved Employees to stand throughout their work shifts.

113. Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A), because Plaintiff and other non-party Aggrieved Employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. Defendants' management did not inform Plaintiff and other non-party Aggrieved Employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

114. As a result of Defendants' company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Plaintiff and other non-party Aggrieved Employees were forced to stand during shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other non-party Aggrieved Employees violated and continues to violate California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(A).

115. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

FAILURE TO PROVIDE SUITABLE SEATING

VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF REGULATIONS, TITLE 8, SECTION 11050(14)(B)

116. At all relevant times herein, California Labor Code section 1198 makes it

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

117. California Code of Regulations, Title 8, section 11070 subdivision 14(B) provides that "[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties."

118. During the relevant time period, Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(B), because Plaintiff and other non-party Aggrieved Employees were not allowed to sit, even during lulls in their work duties, nor were they provided with suitable seats in reasonable proximity to their work areas.

119. Defendants' California restaurants are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Plaintiff and other non-party Aggrieved Employees during lulls in operation. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with a seat or stool in their work areas, but instead denied, and continue to deny, employees seating, forcing them to stand throughout the day.

120. Defendants did not provide Plaintiff and other non-party Aggrieved Employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Plaintiff and other non-party Aggrieved Employees engaged in duties in which the nature of the work required standing, Defendants denied them the use of seats nearby during lulls in their work duties.

Moreover, Defendants did not inform Plaintiff and other non-party Aggrieved Employees of their rights to a seat or stool under California law.

121. As a result of Defendants' company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Plaintiff and other non-party Aggrieved Employees were forced to stand during shifts and denied seats. Defendants' failure to provide suitable seating to Plaintiff and other non-party Aggrieved Employees violated and continues to violate California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(B).

122. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars ($25,000). Plaintiff reserves the right to amend his prayer for relief to seek a different amount.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing to include all forms of remuneration in the "regular rate" of pay for purposes of paying overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage

statements and maintain accurate payroll records); 204 (by failing to timely pay all earned wages during employment); 201 and 202 (by failing to timely pay all earned wages upon termination); and 1198 and the applicable IWC Wage Order (by failing to provide suitable seating);

3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, and 1198;

4. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, and 1198;

5. For pre-judgment and post-judgment interest as provided by law; and

6. For such other and further relief as the Court may deem equitable and appropriate.

Dated: January 3, 2023

Respectfully submitted,

Capstone Law APC

By: ______________________________

Robert Drexler
Molly DeSario
Jonathan Lee

Attorneys for Plaintiff Higinio Alvarez

Exhibit 1

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October 26, 2022

VIA ONLINE SUBMISSION

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

Subject: *Higinio Alvarez v. CEC Entertainment, LLC, et al.*

Dear PAGA Administrator:

This office represents Higinio Alvarez in connection with his claims under the California Labor Code. Mr. Alvarez was an employee of CEC ENTERTAINMENT, LLC and/or CEC ENTERTAINMENT, INC. For the purposes of this letter, Mr. Alvarez collectively refers to these entities as "CEC."

The employers may be contacted directly at the addresses below:

CEC ENTERTAINMENT, LLC 1707 MARKET PL BLVD STE 200 IRVING, TX 75063	CEC ENTERTAINMENT, INC. 1707 MARKET PL STE 200 IRVING, TX 75063

Mr. Alvarez intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Mr. Alvarez seeks relief on behalf of himself, the State of California, and other persons who are or were employed by CEC as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

CEC employed Mr. Alvarez as an hourly paid, non-exempt employee from approximately September 2021 to June 2022. Mr. Alvarez worked for CEC as a Cast Member at its restaurant location in Torrance, California. During his employment, Mr. Alvarez typically worked four (4) hours or more per day, and five (5) days or more per week. At the time Mr. Alvarez's employment with CEC ended, he earned $15.00 per hour. His job duties included, without limitation, preparing food items, ensuring all games were clean and operational, and attending to customers.

CEC committed one or more of the following Labor Code violations against Mr. Alvarez, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c): [1]

CEC's Company-Wide and Uniform Payroll and HR Practices

CEC ENTERTAINMENT, LLC is a Texas limited liability company and CEC ENTERTAINMENT, INC. is a Kansas corporation. Together, they own and operate approximately 72 "Chuck E. Cheese" or "Peter Piper Pizza" restaurant locations in California. Upon information and belief, CEC maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Irving, Texas, for all non-exempt, hourly paid employees working for CEC in California, including Mr. Alvarez and other aggrieved employees. At all relevant times, CEC issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Alvarez and other aggrieved employees, regardless of their location or position.

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

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

CEC willfully failed to pay all overtime wages owed to Mr. Alvarez and other aggrieved employees. During the relevant time period, Mr. Alvarez and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve

[1] These facts, theories, and claims are based on Mr. Alvarez's experience and counsel's review of those records currently available relating to Mr. Alvarez's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Alvarez reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

(12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, CEC had, and continues to have, a company-wide policy and/or practice requiring Mr. Alvarez and other aggrieved employees to perform various work-related tasks while off-the-clock before their shifts. For example, due to CEC's practice of scheduling some shifts outside of daytime business hours, Mr. Alvarez and other aggrieved employees could only enter CEC's restaurants to clock in when other managerial or keyholder employees were available to open the doors. For example, on about five (5) occasions, after reporting to work on time, Mr. Alvarez was forced to wait up to 30 minutes until a managerial employee arrived at the restaurant, before being able to enter CEC's restaurant and clock in because there was no one available for him to open the doors for him. As a result, Mr. Alvarez and other aggrieved employees received no compensation for this time they remained under CEC's control.

Moreover, CEC's timekeeping system prevented Mr. Alvarez and other aggrieved employees from recording all hours worked, because the system locked out Mr. Alvarez and other aggrieved employees and would not permit them to clock in for the start of their shifts unless they had clocked in exactly at their scheduled shift-start time. For instance, on some occasions, Mr. Alvarez would arrive to work after his scheduled shift-start time, but due to CEC's timekeeping system, Mr. Alvarez was required to wait up to 10 minutes off-the-clock, until a managerial employee became available to override the system lockout and allow him to clock in. Thus, CEC's timekeeping system prevented Mr. Alvarez and other aggrieved employees from recording all hours worked when they did not report to work exactly at their scheduled shift start-time.

Second, CEC had, and continues to have, a company-wide policy and/or practice of requiring Mr. Alvarez and other aggrieved employees to perform tasks off-the-clock after their shifts. For example, approximately once per month, Mr. Alvarez would clock out at the end of his shift, but CEC's managers required him to continue working before he could leave for the day, completing tasks such as repairing arcade game machines and attractions and cleaning putting kitchen equipment away. Thus, CEC failed to track all of the time that employees spent performing work-related tasks outside of their shifts, and Mr. Alvarez and other aggrieved employees received no compensation for this time.

Third, CEC had, and continues to have, a company-wide security policy and/or practice of requiring closing shift employees to leave the restaurant premises together in pairs and/or groups. Specifically, CEC's Employee Handbook states, in pertinent part, that: "the following are security procedures that must always be followed to ensure your safety and the safety of your co-workers. No one is allowed to be in the restaurant alone . . . " and suggests that employees walk to vehicles in pairs. In adherence with CEC's written policy, after clocking out at the end of their shifts, Mr. Alvarez and other aggrieved employees were required to wait for other employees to complete their own duties before they were released by a managerial employee and could leave CEC's premises together. For example, Mr. Alvarez would sometimes clock out at the end of his shift, and then have wait up to five (5) minutes until his supervisor had completed his or her closing tasks and locked up the restaurant premises, before being released and able to leave the premises. As a result, Mr. Alvarez and other aggrieved employees were subject to CEC's control after they had clocked out for their shifts, but were not compensated for this time.

Fourth, CEC had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by each location's labor or payroll budget set by corporate. CEC's uniform use of labor budgets, combined with the assignment of heavy workloads, has resulted in chronic understaffing and a lack of adequate meal period coverage, because there were too few employees on duty to handle the workload and customer demand. CEC also had a practice of failing to schedule meal periods, which further caused Mr. Alvarez and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Mr. Alvarez worked though his meal periods approximately once per week in order to keep up with customer demand and complete his duties. Because CEC did not employ or staff a sufficient number of employees to meet customer demand, there was no one available to relieve employees needing meal period coverage, and Mr. Alvarez and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Consequently, Mr. Alvarez and other aggrieved employees were required to work through and had their unpaid meal periods interrupted in order to complete their assigned duties and handle customer demand, time for which they were not paid.

Moreover, because CEC frowned upon employees accruing meal period penalties, CEC pressured employees to clock out for meal periods, even when they did not receive a compliant meal period. Consequently, Mr. Alvarez and other aggrieved employees performed work during meal periods for which they were not paid. Alternatively, on information and belief, CEC's timekeeping system prevented Mr. Alvarez and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Alvarez and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period until 30 minutes had elapsed. Thus, CEC's timekeeping policies and system further prevented Mr. Alvarez and other aggrieved employees from recording all hours worked when their meal periods were missed, shortened, and/or interrupted.

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

Furthermore, CEC did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, on information and belief, CEC paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CEC failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rates. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, CEC failed to pay all overtime wages by paying a lower overtime rate than required.

CEC's failure to pay Mr. Alvarez and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Mr. Alvarez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As stated above, CEC had a company-wide policy and/or practice requiring Mr. Alvarez and other aggrieved employees to perform various work-related tasks while off-the-clock before and after their shifts, including waiting for a managerial or keyholder employee to arrive and open CEC's restaurants, waiting to clock in because the timekeeping system had locked them out, repairing arcade machines after clocking out, and waiting to leave the premises in pairs. Thus, CEC failed to track this time Mr. Alvarez and other aggrieved employees spent working off-the-clock, and Mr. Alvarez and other aggrieved employees received no compensation for this time.

Additionally, as set forth above, due to CEC's uniform use of labor budgets, understaffing, assignment of heavy workloads, failure to schedule meal periods, and subsequent lack of meal period coverage, Mr. Alvarez and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work during their meal periods, time for which they were not paid. Furthermore, as stated above, in order to limit meal penalties that CEC would otherwise owe, CEC pressured Mr. Alvarez and other aggrieved employees to clock out for meal periods, even when they did not receive a compliant meal period. Alternatively, as set forth above, on information and belief, CEC systematically failed to pay Mr. Alvarez and other aggrieved employees for actual hours worked during unpaid meal periods, because CEC's timekeeping system locked out Mr. Alvarez and other aggrieved employees for 30 minutes when they clocked out for a meal period. Combined, these practices prevented Mr. Alvarez and other aggrieved employees from recording all hours worked when their meal periods were missed, shortened, and/or interrupted, time for which they were not paid.

Thus, CEC did not pay at least minimum wages for all hours worked by Mr. Alvarez and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, CEC did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, CEC regularly failed to pay at least minimum wages to Mr. Alvarez and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Mr. Alvarez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As stated above, CEC had, and continues to have, company-wide policies and/or practices of understaffing its locations due to labor budgeting and/or limited payroll allocation, which, combined with heavy workloads and a failure to schedule meal periods, has resulted in a lack of meal period coverage and prevented Mr. Alvarez and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, Mr. Alvarez and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, Mr. Alvarez was required to take his meal period late, after having worked in excess of five (5) hours into his shift, due to the lack of coverage and in order to meet CEC's expectations.

Additionally, as stated, because CEC frowned upon employees accruing meal period penalties, CEC's management pressured Mr. Alvarez and other aggrieved employees to clock out for meal periods, regardless of whether they had received a compliant meal period. For example, Mr. Alvarez was required to clock out for his meal period to record that he had received compliant meal periods on shifts when he had not, in fact, received these timely meal periods.

Furthermore, as stated, CEC's company-wide timekeeping system prevented Mr. Alvarez and other aggrieved employees from recording when their meal periods were shortened or interrupted, because the system locked out Mr. Alvarez and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. For example, about three (3) times per month, Mr. Alvarez's meal periods were interrupted and shortened by 5-10 minutes in order to assist his coworkers with repairing arcade game machines and to keep up with customer demand.

Moreover, CEC did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Alvarez and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

CEC knew or should have known that as a result of its policies and practices, Mr. Alvarez and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. CEC further knew or should have known that it did not pay Mr. Alvarez and other aggrieved employees all meal period premiums when meal periods were missed, late, short, and/or interrupted.

Furthermore, CEC engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Alvarez and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that CEC did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, CEC did not pay other aggrieved employees at the correct rate of pay for premiums because CEC systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, CEC failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Alvarez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc*., 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, CEC regularly failed to authorize and permit Mr. Alvarez and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, CEC's company-wide practices of labor budgeting and/or limited payroll allocation, understaffing, and assignment of heavy workloads, resulted in a lack of rest period coverage and prevented Mr. Alvarez and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. Additionally, CEC also failed to schedule rest periods, which, coupled with CEC's failure to provide adequate rest period coverage, further led to Mr. Alvarez and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, CEC maintained a company-wide on-premises rest period policy, which mandated that Mr. Alvarez and other aggrieved employees remain on CEC's premises during their rest periods. Because Mr. Alvarez and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, CEC effectively maintained control over Mr. Alvarez and other aggrieved employees during rest periods.

As a result, Mr. Alvarez and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, approximately five (5) to eight (8) times during his employment, Mr. Alvarez had to forego his rest periods because the restaurant was busy, did not have coverage, and there was an expectation for all employees to work through their rest periods. When Mr. Alvarez was finally able to take his rest periods, they were often interrupted in order to assist with cleaning tables or repairing arcade game machines.

CEC has also engaged in a systematic, company-wide practice and/or policy of not paying rest period premiums owed when rest periods are not authorized and permitted. Because CEC frowned upon employees accruing rest period penalties, CEC pressured Mr. Alvarez and other aggrieved employees to falsify the time rest periods were taken and/or adjusted employee records to reflect compliant and/or timely rest periods, regardless of whether Mr. Alvarez and other aggrieved employees had received a compliant rest period at that time or not, in order to strictly limit rest period penalties that CEC would otherwise owe. Moreover, CEC's company-wide timekeeping system prevented Mr. Alvarez and other aggrieved employees from recording when their rest periods were shortened or interrupted, because the system locked out Mr. Alvarez and other aggrieved employees once they "clocked out" for a rest period, and would not permit them to "clock back in" from a rest period before 10 minutes had elapsed.

CEC also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Mr. Alvarez and other aggrieved employees have not received all premium pay for missed rest periods. Alternatively, to the extent that CEC did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, CEC did not pay other aggrieved employees at the correct rate of pay for premiums because CEC failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, CEC failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Alvarez and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or $50 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not to exceed $4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of $250 per employee per violation in an initial citation and $1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, CEC has knowingly and intentionally provided Mr. Alvarez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CEC issued uniform wage statements to Mr. Alvarez and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, CEC violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because CEC did not record the time Mr. Alvarez and other aggrieved employees spent working off-the-clock and deducted time from their meal periods that were missed and/or interrupted (and therefore time for which they should have been paid), CEC did not list the correct amount of gross wages and net wages earned by Mr. Alvarez and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, CEC failed to accurately list the total number of hours worked by Mr. Alvarez and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Additionally, because CEC did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, CEC did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, CEC also failed to list the correct amount of net wages in violation of section 226(a)(5). CEC also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a $500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), CEC willfully failed to maintain accurate payroll records for Mr. Alvarez and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, CEC engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Mr. Alvarez and other aggrieved employees in violation of section 1198. Furthermore, in light of CEC's failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, CEC kept no records of meal start and end times for second meal periods.

Because CEC failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Alvarez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Alvarez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Alvarez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

<u>Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment</u>

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

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

Mr. Alvarez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

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

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

CEC willfully failed to pay Mr. Alvarez and other aggrieved employees who are no longer employed by CEC all their earned wages, including, but not limited to, overtime wages, minimum wages, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving CEC's employ.

Mr. Alvarez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(A) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that ". . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful." California Code of Regulations, Title 8, section 11050(14)(A) provides that "[a]ll working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats."

"The 'nature of the work' refers to an employee's tasks performed at a given location for which a right to a suitable seat is claimed, rather than a 'holistic' consideration of the entire range of an employee's duties anywhere on the jobsite during a complete shift. If the tasks being performed at a given location reasonably permit sitting, and provision of a seat would not interfere with performance of any other tasks that may require standing, a seat is called for." *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 558 (Cal. 2016). "Whether the nature of the work reasonably permits sitting is a question to be determined objectively based on the totality of the circumstances. An employer's business judgment and the physical layout of the workplace are relevant but not dispositive factors. The inquiry focuses on the nature of the work, not an individual employee's characteristics." *Id.* The burden of proof to show suitable seating is not available is on the employer. *Id.* at 568. In other words, the employer must show that compliance is "infeasible because no suitable seating exists." *See id.*

CEC's California restaurants are generally similar in their layout and design and there was, and continues to be, space behind host stands, such as the Kid Check stand, to allow for the presence and use of a seat or stool by other Mr. Alvarez and aggrieved employees (with reasonable or no modification to these work areas) during the performance of their work duties. CEC could provide Mr. Alvarez and other aggrieved employees with a seat or stool at its host stands, but instead denies employees seating and forces Mr. Alvarez and other aggrieved employees to stand throughout the day.

Mr. Alvarez and other aggrieved employees spent a substantial portion of their day behind or at these host stands. The nature of the work of an employee performing host duties at host stands can reasonably be accomplished from a seated position. However, as set forth herein, CEC systematically, and on a company-wide basis, does not provide seats or stools at or near the host stands, forcing Mr. Alvarez and other aggrieved employees to stand throughout their work shifts.

CEC violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(14)(A) because Mr. Alvarez and other aggrieved employees were not allowed to sit, even when it would not have interfered with the performance of their duties, nor were they provided with suitable seats. CEC's management did not inform Mr. Alvarez and other aggrieved employees that they were allowed to sit down, provide any means for them to sit down, or mention any policy regarding sitting.

As a result of CEC's company-wide policy and/or practice of prohibiting employees from sitting during their shifts and company-wide failure to provide suitable seating, Mr. Alvarez and other aggrieved employees were forced to stand during shifts and denied seats. CEC's failure to provide suitable seating to Mr. Alvarez and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(A).

Mr. Alvarez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring CEC into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 14(B) – Failure to Provide Suitable Seating

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that ". . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful." California Code of Regulations, Title 8, section 11050(14)(B) provides that "[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties."

The IWC states that subdivision 14(B) applies during "lulls in operation" when an employee, while still on the job, is not then actively engaged in any duties. *Kilby v. CVS Pharmacy, Inc.*, 368 P.3d 554, 565 (Cal. 2016), citing IWC, 1976 Wage Orders, Summary of Basic Provisions, Seats. When taken together, an employee is entitled to a seat under subdivision 14(A) if his or her actual tasks at a discrete location make seated work feasible, while working there. *Id.* However, if other job duties take the employee to a different location where he or she must perform tasks requiring standing, the employee would be entitled to a seat under subdivision 14(B) during "lulls in operation." *Id.*

CEC's California restaurants are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by Mr. Alvarez and other aggrieved employees during lulls in operation. CEC could have provided Mr. Alvarez and other aggrieved employees with a seat or stool in its work areas, but instead denied, and continues to deny, employees seating, forcing them to stand throughout the day.

CEC did not provide Mr. Alvarez and other aggrieved employees with seats or stools in reasonable proximity to their work areas to allow them to use seats when it would not interfere with the performance of their duties for times when they were not engaged in active duties that require standing. In other words, to the extent Mr. Alvarez and other aggrieved employees engaged in duties in which the nature of the work required standing, CEC denied them the use of seats nearby during lulls in their work duties. Moreover, CEC did not inform Mr. Alvarez and other aggrieved employees of their rights to a seat or stool under California law.

As a result of CEC's company-wide policy and/or practice of prohibiting employees from sitting at any time, even when they were not engaged in active duties requiring standing, and company-wide failure to provide seats in reasonable proximity to their work areas, Mr. Alvarez and other aggrieved employees were forced to stand during shifts and denied seats. CEC's failure to provide suitable seating to Mr. Alvarez and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 14(B).

Mr. Alvarez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring CEC into compliance with California's seating requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." CEC, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Alvarez's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Alvarez seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Alvarez, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against CEC for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

Therefore, on behalf of all aggrieved employees, Mr. Alvarez seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Mr. Alvarez's reasonable attempt to settle his dispute with CEC prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform CEC of Mr. Alvarez's aforementioned grievances and the proposed remedies as detailed below, while affording CEC a reasonable opportunity to satisfy Mr. Alvarez's demands.

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

1. CEC shall pay Mr. Alvarez and all other aggrieved employees employed by CEC at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.

2. CEC shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, and provided lawful meal and rest periods.

3. CEC shall conduct a survey or interview all current and former aggrieved employees in California who worked for CEC in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; and the number of rest periods which were not authorized and permitted, with the investigation to be completed within 60 days.

4. CEC shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. CEC also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. CEC shall pay accrued legal interest to Mr. Alvarez and all aggrieved employees at the rate of 10% per annum for said unpaid wages.

6. CEC shall provide Mr. Alvarez and all aggrieved employees employed by CEC at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).

7. CEC shall implement and provide suitable seating to all aggrieved employees.

8. CEC shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.

9. CEC shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq*., including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 5-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

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

Best Regards,

Alexander Lima

Copy: CEC ENTERTAINMENT, LLC (via U.S. Certified Mail); CEC ENTERTAINMENT, INC. (via U.S. Certified Mail)

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

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Alvarez v. CEC

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IRVING, TX 75063

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1707 MARKET PL BLVD STE 200
IRVING, TX 75063

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

CEC ENTERTAINMENT, LLC
1707 MARKET PL BLVD STE 200
IRVING, TX 75063

9590 9402 7706 2122 1820 98

2. A

7022 2410 0000 2406 3515

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by *(Printed Name)*
C. Date of Delivery

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

Service Type
dult Signature
dult Signature Restricted Delivery
☑ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
stricted Delivery

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
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☐ Return Receipt (electronic) $
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Here

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CEC ENTERTAINMENT, INC.
1707 MARKET PL STE 200
IRVING, TX 75063

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1707 MARKET PL STE 200
IRVING, TX 75063

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CEC ENTERTAINMENT, INC.
1707 MARKET PL STE 200
IRVING, TX 75063

2. A 9590 9402 7706 2122 1320 81

7022 2410 0000 2406 3508

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (*Printed Name*)

C. Date of Delivery

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

. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☑ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
stricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

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

Domestic Return Receipt

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

CEC ENTERTAINMENT, LLC
1707 MARKET PL BLVD STE 200
IRVING, TX 75063

2. Article Number (Transfer from service label)

7022 2410 0000 2406 3515

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X DWash 6377 ☐ Agent ☒ Addressee

B. Received by (Printed Name) Covid-19

C. Date of Delivery 10/31

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

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

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

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

CEC ENTERTAINMENT, INC.
1707 MARKET PL STE 200
IRVING, TX 75063

2. Article Number (Transfer from service label)

7022 2410 0000 2406 3508

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X DWash 6377 ☐ Agent ☒ Addressee

B. Received by (Printed Name) Covid-19

C. Date of Delivery 10/31

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

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

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