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10 Attorneys for: Plaintiff CARMELLO CARILLO, individually and on behalf of
11 other persons similarly situated and similarly aggrieved
12 employees

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

15 CARMELLO CARILLO, individually and on
16 behalf of other persons similarly situated and
17 similarly aggrieved employees,

18 Plaintiffs,

19 v.

20 KURA SUSHI USA, INC., an active Delaware
21 Corporation; and DOES 1 through 10,

22 Defendants.

Case No.: 30-2022-01286370-CU-OE-
CXC

Assigned to: Hon. William D. Cluster
Department: CX-104
Complaint Filed: October 14, 2022

**FIRST AMENDED COMPLAINT –
CLASS AND REPRESENTATIVE
ACTION**

1. Failure to Provide Meal Periods;
2. Failure to Provide Paid Rest Periods;
3. Failure to Pay Wages;
4. Failure to Timely Pay Wages at Termination/Separation;
5. Failure to Provide Accurate Wage Statements;
6. Failure to Reimburse Business Expenses;
7. Violation of Unfair Business

Practices Act – Bus. & Prof. Code
§§ 17200, *et seq.*; and
8. Penalties Pursuant to Private
Attorneys General Act (“PAGA”)

Plaintiff CARMELLO CARILLO (“Plaintiff”), on behalf of himself and all others
similarly situated, based on information and belief, complains and alleges:

I.

INTRODUCTION

1. This class and representative action lawsuit arises out of the failure of Defendant KURA SUSHI USA, INC. (referred here as “Defendant”) to provide meal periods at the proper intervals, to provide rest periods at the proper intervals, to pay all wages owed including overtime, to provide accurate and legally compliant wage statements, to reimburse employee business expenses, and to pay all wages owed to terminated or separated employees in a timely manner.
2. Defendant employed Plaintiff and other employees during the applicable time period, utilizing consistent policies and procedures in violation of Labor Code §200, *et seq.*, Labor Code §500, *et seq.*, Labor Code §1194, *et seq.*, Labor Code §2800, *et seq.*, and the applicable Wage Orders issued by the California Industrial Welfare Commission.
3. Defendants are engaged in the business of restaurant ownership and operation. Plaintiff was hired by Defendants on or about July 2017 and was employed by Defendants until Plaintiff’s separation on or about January 12, 2022. At all times during his employment, Plaintiff had a non-exempt classification. Plaintiff was working at Defendants’ “Kura Revolving Sushi Bar” restaurant located at 2700 Alton Parkway in Irvine, CA 92606.
4. At the time of his termination, Plaintiff was not paid all his wages.

- 1 5. Plaintiff was also deprived of lawful meal and rest periods, not paid all wages
2 including overtime he was entitled to, and failed to receive accurate and legally
3 compliant itemized wage statements.
- 4 6. Defendants had a consistent policy of not paying wages for all hours worked,
5 including overtime wages as applicable. This includes off-the-clock work and
6 non-provision of net thirty (30) minute meal breaks.
- 7 7. Defendant had a consistent policy of requiring its employees, including
8 Plaintiff, to work through meal periods or work without a meal period for at
9 least five (5) hours of a shift and failing to pay such employees one (1) hour of
10 pay at the employees' regular rate of compensation for each workday that the
11 meal period was not provided or as required by California state wage and hour
12 laws.
- 13 8. Defendant had a consistent policy of failing to allow its employees, including
14 Plaintiff, rest periods for at least ten (10) minutes per four (4) hours, or a major
15 fraction, worked, and failing to pay such employees one (1) hour of pay at their
16 regular rate of compensation for each workday that the rest period is not
17 provided, or other compensation, as required by California state and wage and
18 hour laws.
- 19 9. Defendant knowingly provided inaccurate wage statements to its employees,
20 including Plaintiff, that did not correctly include the correct wages, including
21 compensation for meal periods not provided and rest period not authorized or
22 permitted as required by California state wage and hour laws.
- 23 10. Defendant had a consistent policy of failing to pay its employees, including
24 Plaintiff, all wages due at the termination or separation, in violation of
25 California state wage and hour laws. Although Plaintiff was terminated on
26 January 12, 2022, he did not receive his final pay until a month later.

- 1 11. Defendant had a consistent policy of failing to reimburse its employees,
2 including Plaintiff, for all business expenses incurred in the discharge of their
3 duties.
- 4 12. Plaintiff, on behalf of himself and all Class Members, brings this action
5 pursuant to Lab. Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, and 1194.2,
6 2800, and 2802 seeking unpaid wages, business expense reimbursement,
7 penalties, equitable relief, and reasonable attorneys' fees and costs.
- 8 13. Plaintiff, on behalf of himself and the putative class members, also brings
9 this action pursuant to Bus. & Prof. Code §§ 17200, *et seq.*, seeking injunctive
10 relief, restitution, and disgorgement of all benefits obtained by Defendants as a
11 result of Labor Code and applicable Wage Order violations.
- 12 14. Plaintiff, on behalf of the State of California, himself, and other similarly
13 aggrieved employees, also brings this action pursuant to California Private
14 Attorney General Act ("PAGA"), Cal. Lab. Code §2698, *et seq.* seeking unpaid
15 wages and other compensation, penalties, and reasonable attorneys' fees and
16 costs.

17 II.

18 JURISDICTION AND VENUE

- 19 15. Venue as to each defendant is proper in this judicial district, pursuant to Code
20 of Civil Procedure § 395. The County of Orange is the proper venue, because
21 Defendant is headquartered in the County of Orange and work was performed
22 by class members in the County of Orange and the legal obligations owed by
23 Defendant to Plaintiff and other class members were breached in the County of
24 Orange.
- 25 16. The California Superior Court has jurisdiction in this matter, because Plaintiff is
26 a resident of California, Defendant is qualified to do business in California, and
27 regularly conducts business in California.
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III.

THE PARTIES

17. Plaintiff CARMELLO CARILLO is a resident of the State of California, and was employed by Defendant in California from July 2017 through January 12, 2022.
18. Defendant KURA SUSHI USA, INC. was an active Delaware Corporation at all times during the claims of Plaintiff and the putative class, was doing business in California, and had its headquarters located at 17461 Derian Avenue, #200 in Irvine, California 92614.
19. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct herein alleged, of the Defendants sued herein as Does 1 through 10, but he is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will amend this First Amended Complaint to allege their true names and capacities when ascertained.
20. Plaintiff is informed and believes and thereon alleges that each defendant acted in all respects pertinent to this action as the agent of the other defendants carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.

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IV.

GENERAL ALLEGATIONS

21. At all times relevant here and as set forth in the following paragraphs of this First Amended Complaint, Defendant employed more than 100 people; and Plaintiff and each member of the putative class was employed by Defendants, and each of them, in the State of California.
22. The employees of Defendant have not been provided: uninterrupted thirty-minute meal periods for work periods of more than five (5) hours per day;

1 second uninterrupted thirty-minute meal periods for work periods of more
2 than ten (10) hours per day; and have not been permitted to take ten-minute
3 (10) rest periods for work periods of four (4) hours or major fractions, pursuant
4 to the Labor Code, and applicable IWC Wage Orders.

5 23. Defendant failed to pay employees wages owed for all hours worked, including
6 overtime hours as applicable, inclusive of work off-the-clock.

7 24. Defendant failed to pay Plaintiff and the members of his putative class upon
8 separation the wages earned and unpaid at the time of discharge.

9 25. Defendant failed to provide Plaintiff and the putative members of his class, at
10 the time of each payment of wages, an accurate itemized statement in writing,
11 showing the gross wages earned, including premium wages owed for failing to
12 provide meal and/or rest periods at the proper intervals.

13 26. Defendant failed to fully reimburse Plaintiff and putative members of her class
14 for all their business-related expenditures. In violation of the Labor Code,
15 Plaintiff and putative members of her class did not receive indemnification for
16 all business-related expenditures.

17 27. Plaintiff asserts claims for relief on behalf of himself and other similarly
18 situated persons as a class action pursuant to Code of Civil Procedure § 382.
19 Plaintiff and all members of his putative class are described below with
20 specificity and fall in several categories of subclasses whose rights have been
21 violated under the law. Defendant has made no effort as of the filing of this
22 First Amended Complaint to correct or remedy the violations of law specified
23 here.

24 **V.**

25 **CLASS ACTION ALLEGATIONS**

26 28. Plaintiff brings this action on behalf of himself and all other employees of
27 Defendant who are similarly-situated persons as a class action pursuant to
28 California Code of Civil Procedure § 382. There is a well-defined common

1 interest by and among Plaintiff and the putative class members, and it is
2 impractical to bring all those individuals before the court under separate,
3 different and repetitive actions. Plaintiff also reserves the right to amend or
4 modify the class descriptions set forth below in greater specificity or clarity if
5 required in the future in accordance with California Rules of Court, rule 3.765
6 (b). The class which Plaintiff seeks to represent is composed of and defined as
7 follows:

8 "Plaintiff Class" – All of Defendant's current and former non-exempt
9 employees who worked for Defendant in California, during the four
10 years before the filing of the Complaint through the time of class
11 certification.

12 29. Plaintiff seeks to certify the following subclasses of employees:

- 13 a) "Meal Period Subclass" – All members of Plaintiff Class who worked
14 each period exceeding five (5) hours without an uninterrupted, off
15 duty, thirty (30) minute meal period and/or periods in excess of ten (10)
16 hours without a second uninterrupted, off duty, thirty (30) minute
17 meal periods; and were not provided compensation of one hour's pay
18 at the employee's regular rate for each day that a meal period was not
19 provided.
- 20 b) "Rest Period Subclass" – All members of Plaintiff Class who worked
21 periods of four (4) hours or major fraction thereof without a duty free
22 rest period of at least 10-minutes and who were not compensated one
23 hour's pay at the employee's regular rate for each day that a rest period
24 was not permitted.
- 25 c) "Unpaid Wage Subclass" – All members of Plaintiff Class who were
26 not paid their minimum/actual wages, including the time that was
27 unlawfully considered by Defendant as off-the-clock, as well as
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overtime wages for hours worked in excess of eight hours per day at the one and a half rate or at a double time rate as applicable.

d) "Waiting Time Subclass" – All members of Plaintiff Class to whom Defendant failed to pay all wages due to them upon termination or resignation under Labor Code §§ 201-203.

e) "Wage Statement Subclass" – All members of Plaintiff Class to whom Defendant improperly failed to provide accurate and legally compliant itemized wage statements under Labor Code §§ 226.

f) "Expense Reimbursement Subclass" – All members of Plaintiff Class to whom Defendant failed to fully reimburse employee business expenses as required by Labor Code §2802.

g) "UCL Subclass" – All members of the Meal Period, Rest Period, Unpaid Wage, Waiting Time, Wage Statement, Expense Reimbursement Subclasses who were subject to unlawful, illegal, unfair and/or deceptive business acts and practices by Defendant and are entitled to disgorgement and restitution of unpaid wages.

30. There is a well-defined community of interest among many persons who comprise a readily ascertainable class:

a) Numerosity -The potential members of the Class and Subclasses as defined here are so numerous that the individual joinder of all of them as named plaintiffs is impracticable. The number of members of the Class and Subclasses is unknown to Plaintiff. It is however estimated that the members are more than 100 individuals, and their identities may readily be ascertained from Defendant's records.

b) Typicality – The claims of Plaintiff are typical of the claims of all members of the Class and Subclasses, who sustained similar damages arising out of Defendant's common course of conduct in violation of law as alleged.

- 1 c) Ascertainable Class – The proposed Class and Subclasses are
2 ascertainable as the members can readily be identified and located based
3 on the Defendant’s payroll and personnel records.
- 4 d) Adequacy – Plaintiff is an adequate representative of the Class and
5 Subclasses: Plaintiff will fairly protect the interests of the members, he
6 has no interest adverse to the members, and he will vigorously pursue
7 this lawsuit on behalf of all the members of the Class and Subclasses.
8 Plaintiff’s attorneys are competent, skilled and experienced in litigating
9 large employment law class actions.
- 10 e) Superiority - Class action treatment will allow a large number of
11 similarly situated persons to prosecute their common claims in a single
12 forum simultaneously, efficiently, and without the unnecessary
13 duplication of effort and expense that numerous individual actions
14 would require. Further, the monetary amounts due to many individual
15 members of the Class and Subclasses are likely to be relatively small, and
16 the burden and expense of individual litigation would make it difficult
17 or impossible for the members to seek and obtain relief. A class action
18 will serve an important public interest by permitting employees harmed
19 by Defendant’s unlawful practices to effectively pursue recovery of the
20 sums owed to them.
- 21 f) Common Questions of Law and Fact – There are common questions of
22 law and fact as to the members of the Class and Subclasses which are
23 superior to questions affecting only individual members of the Class and
24 Subclasses. The common questions of law and fact may be summarized
25 as follows and if necessary will be refined with the progress of formal
26 discovery in the case:
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- 1 g) Whether Defendant failed to provide members of Plaintiff Class who
2 ceased employment with Defendant all wages owed at the time of the
3 cessation of the employee-employer relationship?
- 4 h) Whether Defendant violated California law and applicable Wage Orders
5 by failing to provide Plaintiff Class members with paid ten-minute (10)
6 rest periods for each four hours worked?
- 7 i) Whether the remedy for an employer's failure to provide rest breaks as
8 required by law is a premium wage for hardship of missing a lawful rest
9 break?
- 10 j) Whether Defendant violated California law and applicable Wage Orders
11 by failing to provide Plaintiff Class members with an off-duty thirty
12 minute (30) meal period for more than five hours of work?
- 13 k) Whether Defendant violated California law and applicable Wage Orders
14 by failing to provide members of Plaintiff Class with a second meal
15 period?
- 16 l) Whether the remedy for an employer's failure to provide meal period as
17 required by law is a premium wage for hardship of missing a lawful
18 meal period?
- 19 m) Whether Defendant violated California law, including the applicable
20 wage orders by failing to properly compensate Plaintiff Class members
21 for all hours worked, including overtime hours as applicable?
- 22 n) Whether Plaintiff Class is entitled to waiting time penalties under Labor
23 Code § 203?
- 24 o) Whether Defendant violated California law by their failure to provide
25 Plaintiff Class with accurate and legally compliant itemized wage
26 statements?
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- 1 p) Whether Defendant violated Labor Code §2802 by failing to reimburse
2 Plaintiff and the Plaintiff Class for all business expenses incurred by
3 them in direct consequence of the discharge of their duties?
4 q) Whether Defendant violated Business and Professions Code §§ 17200 et.
5 seq., Labor Code §§ 201, 202, 203, 226, 226.7, 510, 512, 1194, 1194.2, 2800,
6 2802, and applicable Wage Orders which constitutes violations of the
7 public policy?
8 r) Whether Plaintiff Class is entitled to an equitable relief in accordance
9 with Business and Professions Code §§ 17200 et. seq.
10 s) Whether Defendant's affirmative defenses, if any, raise common issues
11 of law and fact as to Plaintiff Class as a whole and/or Subclasses in
12 particular?

13 **VI.**

14 **FIRST CAUSE OF ACTION**

15 **FAILURE TO PROVIDE MEAL PERIODS OR**
16 **COMPENSATION IN LIEU THEREOF**

17 **(Labor Code §§ 226.7, 512)**

18 **(By Plaintiff and Meal Period Subclass against Defendant)**

- 19 31. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint
20 as if fully alleged herein.
21 32. By its failure to provide thirty minute (30) uninterrupted meal period as well as
22 second meal period, if applicable, to Plaintiff and members of the Meal Period
23 Subclass, Defendant willfully violated the provisions of Labor Code §§ 226.7,
24 512 and applicable IWC Wage Orders.
25 33. As a result of Defendant's unlawful conduct, Plaintiff and other members of the
26 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
27 below, and fully incorporated here as applicable.
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VII.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS OR
COMPENSATION IN LIEU THEREOF

(Labor Code § 226.7)

(By Plaintiff and Rest Period Subclass against Defendant)

34. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
35. By its failure to provide ten-minute (10) rest periods for every four (4) hours of work or major fraction thereof per day to Plaintiff and Rest Period Subclass, Defendant willfully violated Labor Code § 226.7 and applicable Wage Orders.
36. As a result of Defendant's unlawful conduct, Plaintiff and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

VIII.

THIRD CAUSE OF ACTION
FAILURE TO PAY WAGES

(Labor Code §§ 510, 1194, 1194.2)

(By Plaintiff and the Unpaid Wage Subclass against Defendant)

37. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint as if fully alleged herein.
38. At all relevant times, Plaintiff and the other members of the Unpaid Wage Class were employees of Defendant covered by Labor Code §§ 510, 1194, 1194.2 and applicable Wage Orders, and they were entitled to receive minimum and overtime wages for all hours worked and liquidated damages equal to unlawfully unpaid minimum wages with interest.
39. Defendant has violated California law and the specified provisions of the Labor Code and applicable Wage Orders by its failure to pay all wages due in accordance, including minimum wages, wrongfully classified off-the-clock

1 wages and overtime pay. As a result of Defendant's unlawful conduct, Plaintiff
2 and other members of the Subclass have suffered damages as articulated in the
3 Prayer for Relief, set forth below, and fully incorporated here as applicable.

4 **IX.**

5 **FOURTH CAUSE OF ACTION**
6 **FAILURE TO PAY WAGES DUE AT TERMINATION**
7 **(Labor Code §§ 201, 202, 203)**
8 **(By Plaintiff and Waiting Time Subclass against Defendant)**

9 40. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint
10 as if fully alleged herein.

11 41. By its failure to timely pay Plaintiff and Waiting Time Subclass, Defendants
12 willfully violated the provisions of Labor Code §§ 201, 202, 203 and applicable
13 Wage Orders. Sec. 203 of Labor Code provides that if an employer willfully fails
14 to timely pay such wages, the employer must, as penalty, continue to pay the
15 employee's wages until the back wages are paid in full or an action is
16 commenced.

17 42. As a result of Defendant's unlawful conduct, Plaintiff and other members of the
18 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
19 below, and fully incorporated here as applicable.

20 **X.**

21 **FIFTH CAUSE OF ACTION**
22 **FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS**
23 **(Labor Code §226)**
24 **(By Plaintiff and Wage Statement Subclass against Defendant)**

25 43. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint
26 as if fully alleged herein.

27 44. By their failure to provide accurate itemized wage statements, semimonthly or
28 at the time of each payment of wages, Defendant willfully violated the
provisions of Labor Code §226 and applicable Wage Orders.

1 45. As a result of Defendant's unlawful conduct, Plaintiff and other members of the
2 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
3 below, and fully incorporated here as applicable.

4 **XI.**

5 **SIXTH CAUSE OF ACTION**
6 **FAILURE TO REIMBURSE ALL BUSINESS EXPENSES**
7 **(Labor Code §§2800, 2802)**

8 **(By Plaintiff and Expense Reimbursement Subclass against Defendants)**

9 46. Plaintiff incorporates paragraphs 1 through 30 of this First Amended Complaint
10 as if fully alleged herein.

11 47. Labor Code § 2800 provides, in pertinent part, "[a]n employer shall in all cases
12 indemnify his employee for losses caused by the employer's want of ordinary
13 care."

14 48. Labor Code § 2802 provides, in pertinent part, "[a]n employer shall indemnify
15 his or his employee for all necessary expenditures or losses incurred by the
16 employee in direct consequence of the discharge of his or his duties..."

17 49. Further, Labor Code § 2802 additionally provides, in pertinent part: "(c)...the
18 term 'necessary expenditures or losses' shall include all reasonable costs,
19 including but not limited to, attorney's fees incurred by the employee enforcing
20 the rights granted by this section."

21 50. During the relevant time period, Defendant was required to reimburse Plaintiff
22 and class members for all expenditures or losses caused by the employer's want
23 of ordinary care and/or incurred in direct consequence of the discharge of their
24 duties, but failed to indemnify and reimburse Plaintiff and class members in
25 violation of Labor Codes §§ 2800 and 2802.

26 51. As a direct and proximate result, Plaintiff and class members have suffered, and
27 continue to suffer, substantial losses, related to the use and enjoyment of such
28 monies to be reimbursed, lost interest on such monies, and expenses and
attorney's fees in seeking to compel Defendant to fully perform its obligations

1 under California law, all of their damage in amounts according to proof at the
2 time of trial.

3 **XII.**

4 **SEVENTH CAUSE OF ACTION**

5 **VIOLATION OF UNFAIR BUSINESS PRACTICES ACT**

6 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

7 **(By Plaintiff, Plaintiff Class and All Subclasses against Defendant)**

8 52. Plaintiff incorporates paragraphs 1 through 51 of this First Amended Complaint
9 as if fully alleged herein.

10 53. The alleged unlawful conduct of Defendant constitutes unfair competition
11 pursuant to Business and Professions Code §§ 17200 *et seq.*, and this cause of
12 action is brought as a cumulative remedy under Bus. & Prof. Code § 17205 for
13 the time period starting four (4) years before the filing of the Complaint.

14 54. As a result, Plaintiff and other members of Plaintiff Class and Subclasses have
15 suffered injury in fact and lost money or property. Plaintiff and said members
16 have been deprived of their rights as set forth in this First Amended Complaint,
17 including, but not limited to, payment of minimum and/or actual wages for all
18 hours worked.

19 55. Pursuant to Business and Professions Code § 17203, Plaintiff and other
20 members of Plaintiff Class and Subclasses are entitled to restitution of all wages
21 owed to them under the Labor Code, and interest thereon, in which they had a
22 property interest, which Defendant failed to pay to them but withheld and
23 retained for itself. Restitution of the money owed to Plaintiff, Plaintiff Class and
24 Subclasses is necessary to prevent Defendant from becoming unjustly enriched
25 by their failure to comply with the Labor Code provisions.

26 56. Plaintiff and members of Plaintiff Class and Subclasses are entitled to recover
27 reasonable attorney's fees in connection with their unfair competition claims
28 pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine
and/or the common fund doctrine.

1 57. Plaintiff requests the court to issue a preliminary and permanent injunction
2 prohibiting defendants from committing the Labor Code and applicable Wage
3 Order violations set forth in this First Amended Complaint, and Plaintiff and
4 the members of Plaintiff Class and Subclasses have suffered further damages as
5 articulated in the Prayer for Relief, set forth below, also incorporated here fully
6 as applicable.

7 **XIII.**

8 **EIGHTH CAUSE OF ACTION**
9 **VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEY GENERAL ACT**
10 **(LABOR CODE § 2699 *et seq.*)**
11 **(By Plaintiff and Aggrieved Employees Against Defendant)**

12 58. Plaintiff incorporates paragraphs 1 through 57 of this First Amended Complaint
13 as if fully alleged herein.

14 59. Under the Private Attorney General Act, Labor Code §§ 2698-99 ("PAGA"),
15 private parties may recover civil penalties for violations of the California Labor
16 Code. PAGA penalties are in addition to any other relief available under the
17 Labor Code.

18 60. As set forth above, Defendant violated the California Labor Code by
19 consistently failing to employ Plaintiff and other similarly situated employees
20 in compliance with California law.

21 61. Plaintiff provided written notice by certified mail to Defendants on October 20,
22 2022, and electronic notice thereafter to the State Labor & Workforce
23 Development Agency ("LWDA"), of the legal claims and theories of this case.
24 To date, and after 65 days from the date of mailing of notice, the LWDA has not
25 notified Plaintiff that the LWDA intends to exercise jurisdiction over the claim
26 for civil penalties under the PAGA. Accordingly, Plaintiff exhausted
27 administrative remedies as required by Labor Code § 2699.3. Plaintiff's PAGA
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claim was assigned case number LWDA-CM-915010-22 by the LWDA.
Appended hereto is a copy of the notice communicated by Plaintiff.

62. Under the PAGA, Plaintiff and all other aggrieved employees are entitled to recover the maximum civil penalties permitted by law from Defendant for the violations of Labor Code alleged in this First Amended Complaint and the notice communicated by Plaintiff.

63. Plaintiff and all other aggrieved employees are also entitled to recover their attorneys' fees and costs under Labor Code § 2699.

XIV.

PRAYER FOR RELIEF

WHEREFORE, on behalf of himself and all others similarly situated, Plaintiff prays for relief and judgment against Defendant as follows:

A. An order certifying that Plaintiff may pursue his claims as a class action under Section 382 of the Code of Civil Procedure; and it is further requested that Plaintiff Class and each Plaintiff Subclass be certified;

B. An order appointing Plaintiff as Class representative;

C. An order appointing Plaintiff's counsel as Class counsel;

D. Disgorgement of Defendant's wrongfully obtained profits and restitution of unpaid wages under Business and Professions Code §§ 17203, 17204;

E. Damages for unpaid additional compensation for failing to provide timely or uninterrupted or lawful meal periods and rest periods;

F. Damages for unpaid minimum wages under Labor Code § 1194;

G. Damages for unpaid overtime and double time wages to the extent applicable;

H. Liquidated damages under Labor Code § 1194.2;

I. Statutory penalties under Labor Code § 226(e);

J. Damages for unpaid penalty wages under Labor Code § 203;

K. Reimbursement of business expenses under Labor Code § 2802;

1 L. Reasonable attorney's fees and costs pursuant to statute, including, but
2 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5;

3 M. Enjoinment of Defendants from further acts of unfair competition and
4 continuous violations of the Labor Code and applicable Wage Orders;

5 N. Civil penalties under Labor Code Section 2699 (75% payable to the
6 LWDA and 25% payable to aggrieved employees);

7 O. For costs of the suit incurred; and

8 P. For such other relief that the Court may deem just and proper, including
9 prejudgment interest and costs.

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11 DATED: Dec. 27, 2022

MOORADIAN LAW, APC

12
13 By: 

14 Zorik Mooradian,

Haik Hacopian,

15 Attorneys for Plaintiff CARMELLO

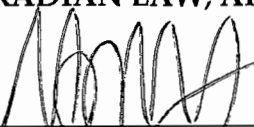
16 CARILLO individually and on behalf of other
17 persons similarly situated

18 **DEMAND FOR A JURY TRIAL**

19 Plaintiff CARMELLO CARILLO hereby demands a jury trial in the above case.
20

21 DATED: Dec. 27, 2022

MOORADIAN LAW, APC

22
23 By: 

24 Zorik Mooradian,

Haik Hacopian,

25 Attorneys for Plaintiff CARMELLO

26 CARILLO individually and on behalf of other
27 persons similarly situated
28

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HAIK HACOPIAN

E-mail: haik@mooradianlaw.com

OCTOBER 20, 2022

VIA USPS CERTIFIED MAIL

Kura Sushi USA, Inc.
17461 Derian Ave., #200
Irvine, CA 92614
7021 1970 0001 7313 8097

Agent for Service of Process for
Kura Sushi USA, Inc.
Hiroki Suyama
555 S. Flower Street, 31st Floor
Los Angeles, CA 90071
7021 1970 0001 7314 1479

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Kura Sushi USA, Inc.

To Whom It May Concern:

This office represents Carmello Carillo with respect to Private Attorneys General Act (“PAGA”) claims that he intends to pursue against Kura Sushi USA, Inc. (“Kura Sushi”) based upon its illegal wage and hour practices in the State of California as to its non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

Kura Sushi is engaged in the business of restaurant ownership and operation. Mr. Carillo worked as a non-exempt hourly employee of Kura Sushi. Kura Sushi employs numerous non-exempt, hourly paid employees such as Mr. Carillo in California. Unfortunately, Kura Sushi has engaged in the following practices:

Failure to Pay Wages

Kura Sushi failed to pay employees for all hours worked, including any overtime and double time, primarily due to improper time tracking and work off-the-clock. Additionally, Employees also did not receive net 30-minute meal breaks due to remaining on duty or being interrupted before completing a meal break.

The above practices resulted in the underpayment of wages to employees, including underpayment of overtime and double-time to the extent applicable.

Failure to Provide COVID-19 Supplemental Paid Sick Leave

Kura Sushi, as a private employer with 26 or more employees, was required to provide COVID-19 Supplemental Paid Sick Leave to employees who were unable to work or telework due to various reasons including: being subject to a quarantine or isolation period related to COVID-19, being advised by a healthcare provider to quarantine due to COVID-19, experiencing COVID-19 symptoms and seeking a medical diagnosis, caring for a family member who was subject to quarantine or isolation due to COVID-19, or attending a vaccine appointment or unable to work due to vaccine-related side effects. Kura Sushi, however, failed to provide employees with supplemental paid sick leave.

Meal Breaks

Kura Sushi engages in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. Employees did not receive premium pay for any missed, late, or short meal period. Notably, meal breaks were not at least a net thirty (30) minutes in duration on account of the time tracking process and factors identified above.

Rest Breaks

Kura Sushi engages in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees did not receive premium pay for these missed rest breaks. Notably, rest breaks were not at least a net ten (10) minutes in duration on account of work interruptions and other factors.

Waiting Time

At the time of an employee's separation (whether it be by termination or resignation) Kura Sushi has failed to provide the employee with all monies owed, including meal break premiums, rest break premiums, and unpaid wages for work performed, including overtime and double-time

wages to the extent applicable. In Mr. Carillo's instance, as to his undisputed final wages, he separated from his employment on January 12, 2022 but was not provided his final paycheck until around a month after this separation date and after many trips by Mr. Carrillo to pick up his final paycheck.

Noncompliant Wage Statements

Kura Sushi has adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to, including meal and rest break premiums and sick leave. Moreover, Mr. Carillo was issued wage statements that did not identify the correct legal address of Kura Sushi.

Failure to Fully Reimburse Employee Expenses

Kura Sushi never provided reimbursement to employees for work related expenses including tools and protective equipment.

Additional Penalties

Mr. Carillo and all other similarly aggrieved employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which Kura Sushi has violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: Kura Sushi violated, and continues to violate, Labor Code Section 201 by failing to pay the employees its has discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination include uncompensated work time, including overtime and double-time as applicable, and premium wages for missed meal and rest breaks.

Labor Code Section 202: Kura Sushi violated, and continues to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: Kura Sushi violated, and continues to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Section 204: Kura Sushi violated, and continues to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above.

Labor Code Section 226: Kura Sushi violated, and continues to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: Kura Sushi violated, and continues to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Sections 246, 247, 248.2, and 248.6: Kura Sushi violated, and continues to violate, Labor Code Sections 246, 247, 248.2, and 248.6 by failing to provide sick leave and COVID-19 Supplemental Paid Sick Leave to employees.

Labor Code Section 510: Kura Sushi violated, and continues to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law including failing to calculate overtime and doubletime wages in accordance with employees' regular rate of pay.

Labor Code Section 512: Kura Sushi violated, and continues to violate, Labor Code Section 512 by not providing employees with legally compliant meal periods.

Labor Code Section 1194: Kura Sushi violated, and continues to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

Labor Code Sections 1197 and 1197.1: Kura Sushi violated, and continues to violate, Labor Code Section 1197 by failing to pay employees a wage less than the minimum fixed by an applicable state or local law.

Labor Code Section 2802: Kura Sushi violated and continues to violate, Labor Code Section 2802 by failing to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we may file an appropriate action, pursuant to Labor Code Section 2698 *et seq.* Mr. Carillo and all other similarly aggrieved employees intend to seek all penalties for the violations described above. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,

MOORADIAN LAW, APC

/s/ Haik Hacopian

HAIK HACOPIAN

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Haik Hacopian <haik.hacopian@gmail.com>

Thank you for submission of your PAGA Case.

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LWDA Case No. LWDA-CM-915010-22
Law Firm : Mooradian Law, APC
Plaintiff Name : Carmello Carillo
Employer: Kura Sushi USA, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm