

1 BRANDON BROUILLETTE (SBN 273156)
bbrouillette@crosnerlegal.com
2 ZACHARY M. CROSNER, ESQ. (SBN 272295)
zach@crosnerlegal.com
3 **CROSNER LEGAL, PC**
9440 Santa Monica Blvd. Suite 301
4 Beverly Hills, CA 90210
Tel.: (866) 276-7637
5 Fax: (310) 510-6429

6 Attorneys for Plaintiff DIANA SERMENO
on behalf of the State of California,
7 and others similarly situated and aggrieved

8
9 **SUPERIOR COURT OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF ORANGE**

11 DIANA SERMENO, on behalf of the State
12 of California, and others similarly situated
and aggrieved,

13 Plaintiff,

14
15 v.

16 CAFE RIO, INC., a California
17 Corporation; and DOES 1-100,
inclusive,

18
19 Defendants.
20

Case No.: 30-2023-01304494-CU-OE-CX

*Assigned for all purposes to the Hon. Layne
H. Melzer; Dept. CX102*

DECLARATION OF BRANDON
BROUILLETTE IN SUPPORT OF MOTION
FOR APPROVAL OF SETTLEMENT UNDER
PRIVATE ATTORNEYS GENERAL ACT

Date: February 5, 2026
Time: 2:00 p.m.
Dept.: CX-102

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1. I am an attorney duly licensed to practice in California and before this Court, and I am a partner with Crosner Legal, PC, counsel of record for plaintiff Diana Sermeno. I make this declaration in support of Plaintiff's Motion for Approval of Settlement under the Private Attorneys General Act. If called to testify as to the within facts, I would and could competently do so.

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1 of herself and on behalf of the Aggrieved Employees, defined to include all individuals who held
2 an hourly, non-exempt positions in California during the PAGA Period, including Assistant
3 Manager, Cashier, Curbside, Delivery Driver, Dishwasher, Drive-thru Cashier, Drive-thru
4 Kitchen, Drive-thru Order, Drive-thru Specialist, Expo, Floor, General Manager, Grill, Line
5 Cook, Prep, Runner, Sauce Cook, Shift Manager, To-Go Cashier, To-Go-Kitchen, and Tortilla.

6 6. Defendant then successfully moved to compel Plaintiff's individual claims to
7 arbitration, and the representative PAGA claims were stayed pending completion of arbitration.
8 Plaintiff subsequently filed a demand for arbitration of her individual claims.

9 7. After Plaintiff initiated arbitration proceedings, the Parties began meeting and
10 conferring and eventually agreed to attempt mediation before incurring significant effort and
11 expense in the arbitration. They also agreed to and did informally exchange information to permit
12 both sides to evaluate Plaintiff's allegations. Through this informal discovery, Defendant
13 provided Plaintiff with information including, inter alia, Plaintiff's personnel file, the number of
14 potential Aggrieved Employees, the number of aggregate pay periods, pay stubs and time records
15 for a sampling of the Aggrieved Employees, and relevant policy documents regarding
16 Defendant's time keeping and reporting policies and meal and rest break policies, among other
17 pertinent materials.

18 8. In June 2024, the Parties mediated the case with David Lowe, Esq., a respected
19 professional neutral with extensive class action/wage and hour experience. Before and during the
20 mediation, Plaintiff and his counsel analyzed, researched, and investigated the potential issues,
21 including matters related to the calculation of penalties, trial, and appellate issues and risks.
22 During mediation, the Parties vigorously debated the likelihood of Plaintiff's ability to proceed on
23 a representative basis as to the PAGA claims, the legal grounds for Plaintiff's claims and
24 Defendant's defenses, and the Parties' data analyses and conclusions based on data provided by
25 Defendant. After a contentious day of negotiations, the Parties reached agreement and
26 subsequently formalized their tentative settlement in the Settlement Agreement now before the
27 Court for approval.

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SUMMARY OF SETTLEMENT TERMS

9. Under the settlement, Defendant will pay a non-reversionary settlement amount of \$240,000 (the “Gross PAGA Settlement Amount” or “GPSA”). The GPSA is inclusive of payments to the LWDA and Aggrieved Employees, costs of settlement administration (estimated at no more than \$12,000), a modest service award to Plaintiff, and reasonable attorney’s fees and costs (Plaintiff’s counsel is requesting 1/3 of the GPSA (\$80,000.00) in fees and costs of \$12,868.53. Plaintiff requests a modest service award of \$10,000.00.) After payment of settlement administration costs, Plaintiff’s service award, and reasonable attorney’s fees and costs from the GPSA, Plaintiff presently estimates about \$125,131.47 will remain (the “Net PAGA Settlement Amount” or “NPSA”). Seventy-five percent of the NPSA (about \$93,848.60) will go to the LWDA, and the remaining 25% (about \$31,282.87) will be distributed to the Aggrieved Employees in proportion to the total number of Pay Periods each individual worked during the PAGA Period of November 22, 2021, through September 4, 2024. The average award currently is estimated at about \$14.31 per individual, and it is estimated that awards will range from about \$0.82 to \$56.

10. The Parties propose using Phoenix Settlement Administrators (“Phoenix”) as the Settlement Administrator. Phoenix has extensive experience administering PAGA settlements, and has agreed to cap its fees at \$12,000. Cafe Rio will fund the GPSA within 15 days after the Administrator notifies it of the opening of the Qualified Settlement Fund, and within 14 days of funding Phoenix will mail a Notice and settlement check to all Aggrieved Employees via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in Cafe Rio’s records. Aggrieved Employees need not submit claim forms and will automatically receive a Notice and settlement check. Settlement checks will be negotiable for 180 days, after which time any unclaimed residual funds will be forwarded to the California State Controller’s Unclaimed Property Fund, subject to Court approval.

11. The California Supreme Court has explained that a judgment in “a representative action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 . . . is binding not only on the named employee plaintiff but also on government agencies

1 and any aggrieved employee not a party to the proceeding.” Arias v. Superior Court (2009) 46
2 Cal.4th 969, 985-86. Accordingly, the release in the Settlement Agreement narrowly releases only
3 civil penalty claims brought under PAGA. Under Arias, the order the Parties request the Court
4 enter is intended to be “binding not only on the named employee plaintiff but also on government
5 agencies and any aggrieved employee not a party to the proceeding.” The Settlement Agreement
6 protects the rights of the Aggrieved Employees to bring their own individual claims should they
7 wish. For these reasons, the Parties contend the release narrowly applies only to the PAGA claims
8 alleged, and the Settlement Agreement specifically provides the Release is inapplicable to any
9 claims other than those brought under PAGA.

10 **THE SETTLEMENT IS FAIR, ADEQUATE AND REASONABLE, FURTHERS THE**
11 **PURPOSES UNDERLYING PAGA, AND WARRANTS APPROVAL**

12 12. Plaintiff primarily contends Defendant failed to provide Aggrieved Employees
13 with compliant meal periods on shifts of between 5 and 6 hours because Cafe Rio employees
14 signed a blanket waiver of their right to a meal period on such shifts. Here, per Plaintiff,
15 employees had to electronically sign these waivers as part of the onboarding process before their
16 first scheduled shift (amidst a host of other documents), and that the waivers provided they can
17 only be revoked in advance of working a shift by sending written notice to a designated human
18 resources email. Plaintiff contends these blanket meal waivers are invalid and unenforceable as a
19 matter of law, and as a result employees should have been provided with the opportunity to take a
20 meal period on shifts between 5 and 6 hours.

21 13. Plaintiff also contends Defendant failed to provide Plaintiff and the Aggrieved
22 Employees with compliant rest periods. While Cafe Rio’s written rest break policies generally
23 appeared compliant, Plaintiff contends that in practice Cafe Rio did not provide rest breaks at all.
24 Per Plaintiff, rest breaks were not scheduled, employees were not told when they could take rest
25 breaks, or that they could take rest breaks at all. Considering these “de facto” practices, Plaintiff
26 argued she and the aggrieved employees did not receive all required rest breaks.

27 14. On the expense reimbursement claim, Plaintiff contends employees had to use
28 personal cell phones for work purposes. Plaintiff alleges she and other employees were required

1 to download specific mobile applications to complete new hire paperwork and later had to
2 download an app called “Workday” for scheduling and payroll purposes, but never received any
3 reimbursement. An employer must reimburse employees for use of personal devices, and if the
4 employee has an unlimited monthly plan, then the employer must reimburse an amount that
5 equates to the employee’s percentage of use for work.

6 15. Plaintiff also brings claims derivative of the foregoing claims, including a
7 derivative wage statement claim based on the failure to pay all wages due, and a claim for failure
8 to pay all wages due and owing upon separation of employment under Labor Code §§ 201-203.
9 Plaintiff also alleged a direct wage statement claim for failing to accurately list the rates of pay
10 and corresponding hours of work during pay periods when employees were paid double time
11 wages, although the number of pay periods with this issue was nominal.

12 16. Finally, although Plaintiff’s complaint alleges claims for unpaid wages, no
13 information came to light supporting those claims. More specifically, the evidence suggested
14 Cafe Rio tracked and paid for hours worked to the minute, accurately accounted and paid for
15 overtime hours at the required premium rates, and there were no apparent violations that
16 potentially could be resolved on a representative basis. For example, Plaintiff contended that on
17 one or two occasions she started a shift at the Menifee restaurant but then was asked to clock out,
18 drive to the Temecula restaurant, and then clock back in and finish her shift. While I believe this
19 scenario resulted in an unpaid wage violation, our investigation did not reveal any information
20 suggesting this was anything but an intermittent or aberration occurrence that would be unlikely
21 to give rise to a viable representative claim. Accordingly, these claims were given little to no
22 weight for settlement purposes.

23 17. For mediation, Cafe Rio indicated it employed approximately 2,185 non-exempt
24 employees in California during the relevant time frame, and these individuals worked
25 approximately 37,968 pay periods during that time. Based on the data provided by Defendant,
26 Plaintiff estimated Defendant’s maximum PAGA exposure at approximately \$15,187,200
27 including approximately \$3,796,800 on the meal break blanket waiver claims, about \$3,796,800
28 on the rest period claims, \$3,796,800 on the wage statement claims, \$3,796,800 on the expense

reimbursement claims, and about \$3,796,800 in civil penalties for failing to timely pay wages on separation of employment. These figures assumed a 100% violation rate.

18. We calculated these amounts as follows:

Meal Violations

37,968 pay periods * 100% violation rate * \$100/violation = \$3,796,800

Rest Violations

37,968 pay periods * 100% violation rate * \$100/violation = \$3,796,800

Expense Reimbursement

37,968 pay periods * 100% violation rate * \$100/violation = \$3,796,800

Derivative Wage Statement & Final Wage Violations

37,968 pay periods * 100% violation rate * \$100/violation = \$3,796,800

19. In response to Plaintiff's meal break claims, Cafe Rio offered multiple defenses. First, it emphasized it authorized and permitted all necessary breaks, and that employees received full uninterrupted lunch periods. Defendant further argued that its meal break waivers were valid and enforceable, and that employees who executed such waivers effectively waived their right to a meal period on shifts of 5 to 6 hours. I also note that this claim is now likely worth little give the very recent decision in Bradsbery v. Vicar Operating, Inc. (2025) 110 Cal. App. 5th 899, 332 Cal. Rptr. 3d 73, 90, reh'g denied (May 14, 2025), as modified (May 20, 2025), as modified (May 21, 2025), that essentially found blanket meal waivers, similar to those at issue here, enforceable.

20. Defendant next argued the applicable rest break policies complied with California law, that it authorized and permitted employees to take all required breaks, and Cafe Rio was prepared to provide testimony to support its rest break practices.. Further, per Defendant, in light of the fact that it is not required to maintain a record of rest periods, any evidence of failure to authorize rest periods and/or discouragement from taking rest periods would be purely anecdotal and individual issues would predominate on liability. This arguably would once again make a trial unmanageable since the number of instances an employee missed a rest break would have to be tested on a case-by-case basis to determine compliance.

21. For Plaintiff's expense reimbursement claim, Cafe Rio emphasized its written

1 policies prohibited employees from using their own phones while on the clock and working, and
2 that Cafe Rio has never used Workday for any purpose. Rather, schedules and payroll information
3 were readily available from other sources. Thus, per Cafe Rio, use of cell phones was not
4 reimbursable as a “necessary” business expense.

5 22. On the alleged derivative violations of Labor Code § 226 (wage statement
6 violations) and §§ 201-203 (waiting time penalties), both claims, since they are entirely
7 derivative, will rise or fall along with the primary claims, in addition to being subject to “good
8 faith” and other defenses available to Defendant. Accordingly, Plaintiff had to discount the value
9 of these claims significantly in light of these multiple potential defenses. Defendant also
10 contended a substantial discount should be applied to the civil penalties for these derivative (i.e.,
11 “stacked”) violations, as it would be unfair to penalize Defendant multiple times for the same
12 violation.

13 23. Defendant also emphasized PAGA gives the Court wide latitude to reduce the
14 amount of civil penalties “based on the facts and circumstances of a particular case” if “to do
15 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” I am
16 aware of multiple state and federal courts in California have applied significant reductions to
17 PAGA civil penalties even after plaintiffs prevailed on the merits, and we accounted for this in
18 our evaluation of the proposed settlement.

19 24. Thus, Defendant raised various and multi-layered defenses to each of Plaintiff’s
20 claims, anyone of which, if successful, could have derailed Plaintiff’s case. And Defendant
21 vowed to raise all these defenses at trial. Accordingly, Plaintiff faced risky issues going forward
22 with litigation, and it could have taken years to realize any recovery in this action along with the
23 possibility of post-trial appeals. In addition to its merits defenses and arguing trial would be
24 unmanageable, Defendant also intended to raise additional defenses on damages, including the
25 proper measure of civil penalties and the appropriate discount to place on any assessment of such
26 penalties.

27 25. Although Plaintiff and I believe we could have prevailed, there was no such
28 guarantee. When the risks of overcoming a manageability defense, prevailing at trial on the merits

1 on all claims, securing the maximum theoretical civil penalties, and appellate risks all are factored
2 into the equation, the settlement value is reasonable and supported. Of course, to recover
3 anywhere near the maximum penalties Plaintiff would have to shoot the moon and win both
4 liability and maximum penalties on all claims for every single pay period at issue, which, for the
5 reasons discussed, is unlikely. Given Defendant's various procedural and merits defenses, as well
6 as the substantial penalty reductions ordered in the cases above – which occurred after trial – the
7 proposed settlement is reasonable.

8 **SUBMISSION TO THE LWDA**

9 26. My office timely served the LWDA with the Settlement Agreement and this
10 Motion, and notified the LWDA of this approval hearing via its online portal and as reflected on
11 the accompanying proof of service. Accordingly, the LWDA will be able to weigh in as necessary
12 and, importantly, many courts find it persuasive of approval if the LWDA ultimately declines to
13 offer any comment or objection to a proposed PAGA settlement.

14 **PLAINTIFF'S RELEASE AWARD**

15 27. A modest incentive award for Plaintiff is appropriate under applicable law. She not
16 only devoted time and resources to the litigation, provided documents, and assisted her counsel
17 with investigating the claims asserted and in preparing for mediation, but also is agreeing to
18 dismiss her pending individual arbitration and enter into a full general release of her alleged
19 claims. The service payment provided to Plaintiff as the PAGA representative is typical in
20 representative action cases and reasonable. Here, the Settlement Agreement provides for a Named
21 Plaintiff Release payment of up to \$10,000.00 to Plaintiff. The request is reasonable given the
22 risks she is dismissing her arbitration proceedings and release all claims against Cafe Rio, all in
23 addition to the risks she undertook on behalf of the Aggrieved Employees and State. By
24 contacting and retaining counsel to pursue these claims, Plaintiff helped make this settlement
25 possible for the absent employees, while shouldering the risk of being liable for Defendant's
26 litigation costs. Plaintiff also exposed herself to unwanted notoriety related to filing a public
27 lawsuit (discoverable even through a simple google search) for the benefit of other employees,
28 placing himself at risk of discrimination by future prospective employers.

1 **THE REQUESTED FEES AND COSTS ARE FAIR AND REASONABLE**

2 28. Under the terms of the Settlement Agreement, I respectfully request an award of
3 attorney's fees to my office equal to 1/3 of the total settlement amount, or \$80,000. A one-third
4 common fund attorney fee award is consistent with what courts have awarded Plaintiff's counsel
5 in other representative actions. Awarding attorney's fees of one-third of a gross settlement
6 amount is favored by California courts when a fund established for the common benefit of others
7 is involved, such as here.

8 29. There are several additional factors why I believe that the Court should award one-
9 third of the common fund as a reasonable attorney's fee. First, our efforts resulted in a common
10 fund settlement amount of \$240,000.00, which for the reasons explained, is fair and reasonable in
11 light of the risks/defenses Defendant raised in litigation and threatened to raise at trial and in post-
12 trial appeals. Further, this is a significant sum that furthers the purposes underlying PAGA such
13 as augmenting the state's enforcement capabilities, encouraging compliance with Labor Code
14 provisions, and deterring future non-compliance. Moreover, this result was achieved by the work
15 and success of this office, who negotiated the settlement after extensive preparation, informal
16 discovery, and an adversarial mediation.

17 30. Second, Plaintiff faced significant risks going forward with the litigation. As
18 discussed above, Defendant raised various defenses to his claims, any one of which, if successful,
19 could have decimated Plaintiff's case. Plaintiff faced risky legal issues going forward with this
20 litigation, and it would have taken several more years to realize any recovery in this action along
21 with the possibility of post-trial appeals,

22 31. Third, we are experienced class and representative action litigators, and have
23 achieved several approved PAGA settlements. This experience and expertise, combined with the
24 high quality of work performed, resulted in the settlement achieved in this case.

25 32. I am a graduate of Loyola Law School, Los Angeles, from which I received a *juris*
26 *doctorate* degree in 2009. Prior to attending law school, I attended the University of Southern
27 California, from which I received a *bachelors of science* in Business Administration in 2006.

28 33. I have been a Partner at Crosner Legal since February 1, 2023. Prior to joining

1 Crosner Legal, I was a Senior Associate and Team Director of a Wage and Hour Litigation Team
2 at Capstone Law APC, which I originally joined as an associate attorney in May 2016.

3 34. Since being admitted to the California State Bar in 2010, my entire legal career has
4 been dedicated to protecting employee and consumer rights through the prosecution of class
5 action and representative actions filed on behalf of plaintiffs in class actions and statewide
6 representative actions. Throughout my career I have managed or co-managed more than 100 class
7 action and PAGA representative cases, from initial filing of the complaint through final
8 resolution.

9 35. In particular, I have served as class counsel in several certified class action cases,
10 including:

11 a. *Party City Wage and Hour Cases*, JCCP4781 (class counsel for certified class of
12 non-exempt hourly employees who worked for Defendants in California)

13 b. *Lewis v. Express Messenger Systems*, Los Angeles Superior Court Case No.
14 BC501521 (class counsel for certified class of last-mile delivery drivers who were
15 alleged to be misclassified as independent contractors)

16 c. *Ramirez-Vivar v. Grifols Diagnostic Solutions, Inc., et al.*, Alameda County
17 Superior Court, Case No. RG21099519 (class counsel for certified classes of non-
18 exempt hourly employees who worked for Defendants in California)

19 d. *Jones v. LA Live*, Los Angeles County Case No. BC687908 (class counsel for
20 certified issue classes consisting of hourly employees who worked at Staples Center
21 and Nokia Theater)

22 36. The following is a representative sample of settlements in wage and hour class
23 action and PAGA representative cases in which I was listed as an attorney of record and either
24 managed, or co-managed with attorneys at my firm and other co-counsel:

25 e. *Cruz v. Walmart*, Los Angeles County Super. Ct. Case No. 18STCV03128 (\$15
26 million global PAGA settlement on behalf of hourly employees statewide for alleged
27 Labor Code violations.)

28 f. *Vorise v. 24 Hour Fitness USA, Inc.*, Contra Costa County Super. Ct., Case No. C

1 15-02051 (\$11 million global PAGA settlement on behalf of over 36,000 employees
2 for Labor Code violations.)

3 g. *Gross v. Sodexo*, Kern County Super Ct., Case No. BCV-18-101746 Capstone
4 (\$4.75 million class and PAGA settlement on behalf of class of non-hourly employees
5 for Labor Code violations.)

6 h. *Campbell v. AEG* (\$1.8M class and PAGA settlement on behalf of group of hourly
7 employees who worked at concert venues in California for alleged Labor Code
8 violations)

9 i. *Fiebelkorn v. AEG*, et al. Los Angeles Superior Court Case No. BC717337
10 (\$1.75M class settlement on behalf of group of hourly employees who worked at
11 Oakland Coliseum for alleged Labor Code violations)

12 j. *Amaro v. Anaheim Arena Management*, Orange County Superior Court Case No.
13 30-2017-00917542 (\$2,212,500 class and PAGA settlement on behalf of group of
14 hourly employees who worked at Honda center in Anaheim California for alleged
15 Labor Code violations)

16 k. *Espindola v. Panda Express*, San Bernardino Superior Court Case No.
17 CIVDS1931455 (\$3.125M class and PAGA settlement on behalf of hourly employees
18 statewide for alleged Labor Code violations)

19 l. *Gold v. Benihana*, San Diego Court Superior Court Case No. 37-2016-00022320-
20 CU-OE-NC (\$2.25M class and PAGA settlement on behalf of hourly employees
21 statewide for alleged Labor Code violations)

22 m. *Party City Wage and Hour Cases*, JCCP4781 (\$6.5M class and PAGA settlement
23 on behalf of hourly employees statewide for alleged Labor Code violations)

24 n. *Lewis v. Express Messenger Systems*, Los Angeles County Super Court Case No.
25 BC501521 (\$10.5M class and PAGA settlement on behalf of a statewide group of
26 independent contractor last-mile delivery drivers alleged to be misclassified)

27 o. *Flores v. Tesla*, Alameda County Superior Court Case No. RG18907072 (\$4M
28 class and PAGA settlement on behalf of statewide group of hourly employees for

alleged Labor Code violations)

- p. *Ruiz v. Disney Stores*, San Bernardino Superior Court Case No. CIVDS2016983 (\$2M class and PAGA settlement on behalf of statewide group of hourly employees who worked at retail stores in California for alleged Labor Code violations)
- q. *Ramirez v. Yin Management*, Sacramento County Superior Court Case No. 34-2021-00301530 (\$1.8M class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's McDonald's franchises in California for alleged Labor Code violations).
- r. *Suhartono v. RRG Besh*, Los Angeles County Superior Court Case No. 19STCV22184 (\$2.25 class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's McDonald's franchises in California for alleged Labor Code violations).
- s. *Gomes v. Kura Sushi*, Los Angeles County Superior Court Case No. 19STCV18977 (\$1.75M class and PAGA settlement on behalf of statewide group of hourly employees who worked at Defendant's restaurants in California for alleged Labor Code violations)
- t. *Saldana v. Hydrochem*, Contra Costa Superior Court Case No. CIVMSC19-02624 (\$1.38M class and PAGA settlement on behalf of statewide group of hourly employees for alleged Labor Code violations).

37. In addition, below are settlements in consumer class action cases in which I was listed as an attorney of record and either managed, or co-managed with attorneys at my firm:

- u. *Lopez v. Seterus, et al.*, Los Angeles Superior Court Case No. BC484297 (\$3M Class settlement on half of thousands of borrowers in California, Florida, and Texas for UCL violations premised on improper late fee collections)
- v. *McGill v. Citibank*, Riverside County Superior Court Case No. RIC 1109398 (in landmark case that established the 'McGill rule' precluding the waiver of public injunctive relief in pre-dispute arbitration agreements, negotiated confidential settlement on behalf of consumer who sued for damages and class injunctive relief

stemming from marketing of credit protector plan)

38. Finally, I have been selected by my peers as a Super Lawyers ‘Rising Star’ every year since 2016 through 2022, which is a recognition that is provided to only 2.5% of active lawyers practicing within the State of California

39. Zach Crosner is a 2010 graduate of University San Diego School of Law, and has some 14 years of experience as a practicing attorney, all of which have focused on litigation of employment, labor law, consumer, and class action claims. Following graduation, he immediately began working for a nationally recognized plaintiff’s complex litigation firm, CaseyGerry, where he had the fortune of working directly with past presidents of the consumer attorneys and recipients of trial attorneys of the year awards. He also worked for former CAALA and CLAY trial attorney of the year recipient, attorney Conal Doyle, as his sole associate attorney. During his tenure at these firms, he focused on advocating for the rights of consumers and employees in class action litigation, civil rights and employment litigation, catastrophic injuries, insurance bad faith and appellate litigation.

40. In 2013, Mr. Crosner founded the law firm of Crosner Legal, P.C. which since its inception has focused almost exclusively on wage and hour class actions and other labor and employment law cases representing plaintiffs. Currently, over ninety percent (90%) of his practice is dedicated exclusively to the prosecution of wage and hour class actions, and Crosner Legal is currently responsible as lead counsel or co-lead counsel for prosecuting well over fifty (50) wage and hour class actions and/or PAGA representative actions in both federal and state courts throughout California.

41. Mr. Crosner currently is an executive board member of the Wage and Hour Committee and the Legislative Committee for the California Employment Lawyers Association; a member of the Grassroots Advocacy Team for the National Employment Lawyers Association; Wage and Hour Committee member and Class Action Committee member for the National Trial Lawyers; a member of the American Association for Justice; and member of the Pound Civil Justice Institute. He was selected for 2018-20 by Super Lawyers as a “Southern California Rising Star” for employment and labor law.

1 42. Kiara Bramasco received her undergraduate degree, magna cum laude, from
2 Loyola Marymount University in Political Science, and then received her JD from Loyola Law
3 School in 2018. She then spent several years with well-known plaintiff's firm Moss Bollinger,
4 first as a law clerk and then as an associate, where her practice focused on employment law,
5 particularly wage and hour class action and PAGA litigation. She joined Crosner Legal in 2021
6 and is head of the Firm's Pre-Litigation Department.

7 43. Branden Hamilton obtained her undergraduate degree from UCLA in 2004, and
8 her law degree from George Washington University in 2007. She has been affiliated with my firm
9 since 2017 and became Of Counsel with Crosner Legal in 2019, and her practice focuses almost
10 exclusively on wage and hour class and representative actions. She has spent her entire career
11 representing plaintiffs in employment litigation, including several years as an associate at well-
12 known plaintiff's firm Carlin & Buchsbaum.

13 44. Crosner Legal, P.C. has obtained several multi-million dollar wage and hour class
14 action settlements while serving as lead class counsel in recent years, including but not limited to
15 a \$1.9 million wage and hour class action settlement in 2015 (*Smith v. Lux Retail North America,*
16 *Inc.*, Case No. 3:13-cv-01579-WHA (N.D. Cal.)); a \$4.1 million wage and hour class action
17 settlement in 2016 (*Aguirre v. Mariani Nut Company, Inc. et al.*, Case No. 34- 2016-00190252
18 (Sacramento Cty. Super Ct.)); a \$1.35 million wage and hour class action settlement in 2017
19 (*Montelone v. Ocean Cities Pizza, Inc.*, Case No. 56-2014-00458249 (Ventura Cty. Super. Ct.)), a
20 \$1.8 million wage and hour class action settlement in 2018 (*Latham v. K.W.P.H. Enterprises, Inc.*
21 *dba American Ambulance*, Case No. 17C-0162 (Kings Cty. Super Ct.)), a \$1.3 million wage and
22 hour class action settlement in 2019 (*Means, et al. v. AirGas USA, LLC*, Case No. 17-CV-2160
23 JGB (C.D. Cal.)), a \$1.5 million wage and hour settlement in 2020 (*Babouchian, et al. v.*
24 *Wyndham Vacation Ownership, et al.*, Case No. CV18-14601 (San Diego Cty. Super. Ct.)), a
25 \$1.15 million wage and hour class action settlement in 2020 (*Buford v. Medical Solutions LLC*,
26 Case No. 4:18-CV-04864-YGR (N.D.Cal.)); a \$7.25 million wage and hour class action
27 settlement in 2020 in *Avina, et al. v. First Alarm Security & Patrol, Inc.*, Case No. 18CV323753
28 (Santa Clara Cty. Super Ct.); a \$2.2 million wage and hour class action settlement in 2021

1 (*Ghorchian, et al. v. West Hills Hospital, et al.*, Case No. LS029737 (Los Angeles Cty. Super.
2 Ct.)); a \$2.85 million dollar wage and hour settlement in 2021 (*Valencia v. The Original*
3 *Mowbray's Tree Service, Inc.*, Case No. CIVDS1825518 (San Bernardino Cty. Super. Ct.)); a \$1
4 million wage and hour class action settlement in 2022 (*Duong v. Loan Factory, Inc.*, Case No.
5 21CV382467 (Santa Clara Cty. Super. Ct.)), a \$1.4 million wage and hour class action settlement
6 in 2023 in *Correa, et al. v. FedEx Supply Chain, Inc.*, Case No. CIVDS2023369 (San Bernardino
7 Cty. Super. Ct.), a \$2.38 million wage and hour class action settlement in 2023 in *Michel, et al. v.*
8 *Valley Thrift Store, Inc.*, Case No. 21STCV00925 (Los Angeles Cty. Super. Ct.); a \$2.5 million
9 wage and hour class action settlement in 2023 in *Jajuga v. Pilot Travel Centers*, Case No.
10 CIVDS1931464 (San Bernardino Cty. Super. Ct.); \$1.015 million wage and hour class action
11 settlement in 2023 in *Gotishan v. Kyo Autism Therapy*, Case No. CGC-21-596378 (San Francisco
12 Cty. Super. Ct); and a \$1.15 million wage and hour PAGA settlement in 2023 in *Vaughn v.*
13 *Public Health Foundation Enters., Inc.*, Case No. 21STCV18512 (Los Angeles Cty. Super. Ct.); a
14 \$1.5 million wage and hour class action settlement in *McKinnie v. Iron Mountain*, Case No.
15 21STCV05707 (Los Angeles Cty. Super. Court); a \$1.3 million wage and hour class action
16 settlement in *Ellsworth, et al. v. Hallcon*, Case No. 20STCV06618 (Los Angeles Cty. Super.
17 Court); a \$1.925 million wage and hour class settlement in 224 in *Lo v. Cyberpower, Inc.*, Case
18 No. 21STCV31479 (Los Angeles Cty. Super. Ct); a \$1.19 million dollar wage and hour class
19 action settlement in 2024 in *Herrera v. Signature Flight Support LLC*, Case No. 22STCV18367
20 (Los Angeles Cty. Super. Ct.); a \$2.65 million wage and hour class action settlement in 2024 in
21 *Shilevinatz v. Airport Terminal Services*, Case No. CIVSB2229072 (San Bernardino Cty. Super
22 Ct.) and a \$1 million wage and hour class action settlement in 2025 in *Hernandez v YZER, LLC*,
23 Case No. 23CV025345 (Alameda Cty. Superior Ct).

24 45. Based upon the qualifications and experience set forth above, the following hourly
25 rates are reasonable for attorneys practicing in this area of the law in California: Zachary M.
26 Crosner \$850/hour, Brandon Brouillette, \$750/hour, Kiara Bramasco \$650/hour, and Branden
27 Hamilton \$600/hour.

28 46. I request the Court apply the above hourly billing rates in this case, as it reasonable

1 in the California legal market for attorneys handling wage and hour class and PAGA actions. I
2 have personal knowledge of the hourly rates charged by a number of plaintiff-side wage and hour
3 class action firms in major California legal markets for partner-level attorneys with experience
4 comparable to mine. These rates have ranged from \$750 to \$900 per hour for calendar years
5 2018-2023. Some examples include attorney Ron Makarem of Makarem & Associates in Los
6 Angeles, with 28 years of experience, \$900/hour (2023), Matthew Matern of Matern Law Group
7 in Los Angeles, with approximately 26 years of experience \$850/hour (2018); Craig Ackermann
8 of Ackermann & Tilajef, PC in Los Angeles with approximately 25 years of experience
9 \$850/hour (2021), Michael Singer and Isam Khoury of Cohelan Khoury & Singer in San Diego,
10 35 years and 45 years of experience respectively, both \$825/hour (2018), Zachary Crosner of
11 Crosner Legal PC in Los Angeles, 13 years of experience \$750/hour (2022), and James Kawahito
12 of Kawahito Law Group in Los Angeles, with approximately 16 years of experience \$750/hour
13 (2020).

14 47. The requested rates also comport with the adjusted Laffey Matrix, which provides
15 that reasonable hourly rates for attorneys with 10+ years of experience, such as Mr. Crosner, Ms.
16 Serb, and myself, are over \$800/hour. The adjusted Laffey Matrix may be found at
17 <http://www.laffeymatrix.com/see.html>.

18 48. Fourth, Crosner Legal has been representing Plaintiff (and the State of California)
19 in this matter on a strictly contingent basis and as such, had to forego other financial opportunities
20 to litigate other cases, incurred the risk of non-recovery after a substantial investment of time,
21 money, and resources, and have done so since the inception of this case without any payment or
22 compensation. This is not an easy burden for a small firm. If, despite these hardships and risks,
23 the best this office could hope for is merely to be paid our customary hourly rate multiplied by the
24 number of hours worked on the case, then we would not be compensated for the hardships and
25 serious risks it faced litigating this contingency case, and would not be incentivized to take on
26 similar private attorney general cases in the future.

27 49. Fifth, the request for attorney's fees in the amount of one-third of the common
28 fund falls well within the norms accepted by state and federal courts in California in comparable

1 wage and hour actions actually handled by this office. Moreover, the award of a one-third fee
2 recovery under the common fund doctrine was recently approved by the California Supreme
3 Court in Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480. For all of the above reasons, a
4 common fund fee award here in the amount of one-third of the \$240,000 common fund, or
5 \$80,000.00, is fair and reasonable.

6 50. I have reviewed the work performed on the case and the billing inputted, and the
7 hours worked on this case total 114.7 attorney and paralegal hours. Accordingly, my firm's
8 lodestar totals approximately \$87,900, exclusive of time for attending the hearing on the approval
9 motion and time to be incurred thereafter to implement and administer the settlement. The
10 aggregated lodestar is summarized in Exhibit 6 hereto. On a lodestar basis, the requested fees are
11 actually less than the unadorned lodestar, and accordingly there is no request to apply a lodestar
12 modifier.

13 51. As noted, Crosner Legal has represented Plaintiff for some two years with respect
14 to this matter and has expended a significant amount of time and resources in that representation.
15 The firm agreed to litigate this case on a purely contingent basis and in so doing assumed
16 considerable risk of non-payment for its fees and costs, as discussed above, and as is the case with
17 these matters in general. Under all relevant factors (as outlined herein and in the accompanying
18 memorandum), I respectfully request the Court award the requested fees of \$80,000.00 based on
19 the common fund theory with a corresponding lodestar cross-check and no lodestar enhancement.

20 52. I also request reimbursement of my firm's actual out-of-pocket expenses incurred
21 to prosecute this action. These expenses were incidental and necessary to the effective
22 representation of the employees.

23 53. My firm's costs are **\$12,868.53**, including court filing/service of process fees,
24 mediation fees, and postage. Notably, the requested costs do not include any and all printing and
25 research charges. The requested costs are reasonable and uncontested and should be approved and
26 a true and correct itemization of the costs and expenses incurred is set forth below:
27
28

1	Expense Category	Amount
2	Court Filing Fees/Service of Process/Attorney Service	\$2,343.53
3	Mediation Fees	\$10,000.00
4	PAGA Filing Fee	\$75.00
5		
6	Court Reporting Fees	\$450.00
7	Total Costs and Expenses	\$12,868.53

8
9 54. For the foregoing reasons, it is respectfully requested that the Court approve the
10 settlement.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. Executed on August 28, 2025, at Los Angeles, California.

13
14 
15 _____
16 Declarant

EXHIBIT

1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff, Diana Sermenio (“Plaintiff”) and Defendant, Cafe Rio, Inc. (“Cafe Rio” or “Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1. “Action” means Plaintiff’s PAGA lawsuit alleging Labor Code violations against Defendant captioned *Diana Sermenio v. Cafe Rio, Inc.*, Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC, initiated on January 27, 2023.

1.2. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have jointly agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.

1.4. “Aggrieved Employee” means all non-exempt, hourly-paid persons who Defendant employed in any of the Covered Positions at its California locations at any time from during the PAGA Period and who received pay for at least two (2) regular hours of work during a PAGA Pay Period.

1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employees’ names, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. “Approval Date” means the date the Court enters the Approval Order.

1.8. “Approval Order” means the Court’s order approving this Agreement.

1.9. “Court” means the Superior Court of California, County of Orange.

1.10. “Covered Positions” means hourly, non-exempt positions in California during the PAGA Period, including Assistant Manager, Cashier, Curbside, Delivery Driver, Dishwasher, Drive-thru Cashier, Drive-thru Kitchen, Drive-thru Order, Drive-thru Specialist, Expo, Floor, General Manager, Grill, Line Cook, Prep, Runner, Sauce Cook, Shift Manager, To-Go Cashier, To-Go-Kitchen, and Tortilla.

1.11. “Defense Counsel” means Morgan, Lewis & Bockius LLP.

1.12. “Defendant” means Defendant, Cafe Rio, Inc.

1.13. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement; and (b) the Judgment is final. The Judgment is final as of the day the Judgment is no longer subject to appeal, judicial review, or other challenge.

1.14. “Gross Settlement Amount” means Two Hundred Forty Thousand U.S. Dollars (\$240,000.00) which is the total amount Defendant agree to pay under the Settlement to resolve the Action. The Gross PAGA Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the Named Plaintiff’s Release Payment, and the Administrator’s Expenses Payment.

1.15. “Individual PAGA Amount” means the Net PAGA Settlement Amount less the LWDA PAGA Payment.

1.16. “Individual PAGA Payment” means an Aggrieved Employee’s pro rata share of the Individual PAGA Amount calculated by: (a) dividing the number of PAGA Pay Periods the Aggrieved Employee worked by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and then; (b) multiplying the resulting percentage by the Individual PAGA Amount.

1.17. “Judgment” means the judgment entered by the Court.

1.18. “LWDA” means the California Labor and Workforce Development Agency.

1.19. “LWDA PAGA Payment” means 75% of the Net PAGA Settlement Amount.

1.20. “Named Plaintiff” or “Plaintiff” means Diana Sermenio.

1.21. “Named Plaintiff’s Release Payment” means a \$10,000 payment to the Named Plaintiff to be paid out of the Gross Settlement Amount for agreeing to a general release of all claims that she may have against Defendant arising out of her employment with Defendant.

1.22. “Net PAGA Settlement Amount” means the Gross PAGA Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the Named Plaintiff’s Release Payment, and the Administration Expenses Payment.

1.23. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.24. “PAGA Counsel” means Crosner Legal, P.C., the attorneys representing the Plaintiff in the Action.

1.25. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees, not to exceed \$80,000 (representing approximately one-third of the Gross Settlement Amount), and expenses, not to exceed \$15,000, respectively, incurred to prosecute the Action.

1.26. “PAGA Notice” means Plaintiff’s November 22, 2022 letter to Cafe Rio and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.27. “PAGA Pay Period” means any pay period during which an Aggrieved Employee received pay for at least 2 regular hours of work during the PAGA Period.

1.28. “PAGA Period” means the period from November 22, 2021, through September 4, 2024.

1.29. “Released PAGA Claims” means any and all claims for PAGA civil penalties that were alleged or could reasonably have been alleged in the operative complaint based on the alleged facts and violations as set forth in Plaintiff’s Complaint filed January 27, 2023, or corresponding PAGA Notice (including but not limited to claims based on violations related to unpaid wages, overtime, meal periods, rest periods, wage statements, reporting time pay, reimbursement of business expenses, uniform maintenance, and failure to timely pay wages) which arose during the PAGA Period.

1.30. “Released Party” means: Defendant Cafe Rio, Inc. and its parent companies, subsidiaries, affiliates, related companies, owners, successors and assigns, in their individual and

representative capacities, all persons acting by, through, and under, or in concert with any of them and all companies or entities that could be jointly liable with Defendant.

1.31. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. SETTLEMENT OF DISPUTED CLAIMS.

2.1. This Agreement and all associated exhibit(s) or attachment(s) are made for the purpose of settling the Released PAGA Claims in the Action. Because the Action is being settled under PAGA, the Court “shall review and approve any settlement of any civil action filed pursuant to [Labor Code §§ 2698 *et seq.*]” Cal. Lab. Code § 2699(l)(2). Accordingly, the Parties enter into this Agreement and associated settlement on a conditional basis. If the Court does not enter the Approval Order and Judgment and/or the Approval Date does not occur, this Agreement shall be deemed null and void *ab initio*, it shall be of no force or effect whatsoever, it shall not be referred to or utilized for any purpose whatsoever, and the negotiation of the Agreement shall remain subject to the provisions of California Evidence Code section 1152 and any other analogous rules of evidence that are applicable. In the event this Agreement is deemed null and void or the Effective Date does not occur, Defendant does not waive, but rather expressly reserves, all rights to challenge Plaintiff’s Released PAGA Claims and Plaintiff’s allegations in the Action and PAGA Notice upon all procedural, merit, and factual grounds, including, without limitation, the ability to challenge representative treatment on any grounds and assert any and all other privileges and potential defenses.

2.2. Because this is not a settlement of a class action but rather a PAGA settlement on behalf of the State of California, no person can (a) object to the settlement after the Court’s Approval Order is made, or (b) opt out at any time from being bound by the Released PAGA Claims if the Approval Order is made.

3. RECITALS.

3.1. On January 27, 2023, Plaintiff Diana Sermenio commenced this Action by filing her Complaint alleging causes of action against Defendant Cafe Rio, Inc. for penalties pursuant to Labor Code §§ 2699, *et seq.* for violations of Labor Code sections 223, 226, 226.7, 227.3, 245-248.6, 351, 353, 432.5, 432.7, 1024.5, 1174, 1198, 1198.5, 1199, 2802, and 2810.5; California

Code of Regulations, Title 8, Sections 11050(3), 11050(4), 11050(5), 11050(7), 11050(9)(B), 11050(11)(A) and (C), 11050(7), 11050(12)(B), 11050(14)(A) and (B); California Civil Code Section 1786; and 15 U.S.C. § 1681. Defendant denies the allegations in the Complaint, denies any failure to comply with the laws identified in the Complaint, and denies any and all liability for the causes of action alleged.

3.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave written notice to Cafe Rio and the LWDA by sending the PAGA Notice on November 22, 2022.

3.3. The Parties, PAGA Counsel, and Defense Counsel represent and warrant that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by this Settlement. Further, Plaintiff and PAGA Counsel represent and warrant that they have not filed and are not aware of any other actions against Defendant relating to any of the claims being released in this action.

3.4. Nothing in this Agreement, or any communications, papers, or orders related to this Agreement, shall be construed to be or deemed an admission by the Released Parties of any liability, culpability, or wrongdoing. Defendant specifically disclaims any liability, culpability, or wrongdoing. The Parties have entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and contingencies. This Agreement and any communications, papers, or orders related to the Agreement may not be cited or otherwise admitted as evidence of liability or that class certification is appropriate or that a representative action could ever be manageably tried before a court.

4. MONETARY TERMS.

4.1. Gross Settlement Amount. Defendant promises to cause to be paid no more than the Gross Settlement Amount to the Administrator to fully and forever settle and resolve the Action. Defendant has no obligation to cause to be paid the Gross Settlement Amount prior to the deadline stated in Paragraph 5.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. Aggrieved Employees have no right or opportunity to opt out of this settlement, and every Aggrieved Employee releases any and all PAGA claims that they may have pursuant to the release provisions of this Settlement. None of the Gross Settlement Amount will revert to Defendant.

4.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court:

4.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than \$80,000 (representing approximately one-third of the Gross Settlement Amount), and PAGA Counsel Litigation Expenses Payment of not more than \$15,000. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net PAGA Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's counsel arising from any claim to any portion of any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.

4.2.2. To the Administrator: An Administration Expenses Payment not to exceed \$12,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$12,000, the Administrator will retain the remainder in the Net PAGA Settlement Amount.

4.2.3. To the LWDA: The Administrator will pay the LWDA PAGA Payment to the LWDA.

4.2.4. To the Aggrieved Employees: The Administrator will calculate each Individual PAGA Payment and pay the Individual PAGA Payments pursuant to Section 5. Each Aggrieved Employee will receive a notice with the Individual PAGA Payment in the form of Exhibit A. No Aggrieved Employee will have the right to object to the

Settlement or Opt-Out of the Settlement. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms. Aggrieved Employees will be fully responsible for tax issues arising out of or relating to the Individual PAGA Payments.

4.2.5. To the Named Plaintiff: The Administrator will pay the Named Plaintiff the Named Plaintiff Release Payment and the Named Plaintiff's Individual PAGA Payment. If the Court does not approve the amount requested, any approved amount will be paid to the Named Plaintiff. The Administrator will allocate the remainder to the Net PAGA Settlement Amount. Named Plaintiff will be fully responsible for taxes relating to such payments which are allocated to penalties for the purposes of this Agreement.

5. SETTLEMENT FUNDING AND PAYMENTS.

5.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 2,185 Aggrieved Employees who worked a total of 37,968 PAGA Pay Periods.

5.2. Aggrieved Employee Data. Within 30 calendar days after the Effective Date, Defendant will deliver the Aggrieved Employee Data to the Administrator only in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to the Administrator's employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. The Administrator will not provide Aggrieved Employee Data to Plaintiffs or PAGA Counsel, but may provide summary data; e.g., total number of Aggrieved Employees and Pay Periods, but not contact information or other individual identifying information

5.3. Funding of Gross PAGA Settlement Amount. Defendant shall transfer the Gross PAGA Settlement Amount to the Administrator by fifteen (15) business days after the date the Administrator notifies Defendant that it has established the Qualified Settlement Fund ("QSF") and provides wiring instructions to Defendant. Transfer of the Gross Settlement Amount to the Administrator fully and forever satisfies Defendant's obligations under this Agreement. The Agreement and its releases shall remain valid and enforceable regardless of the Administrator's performance or failure to perform its obligations under this Agreement.

5.4. Payments from the Gross PAGA Settlement Amount. Within 14 business days after Defendant funds the Gross PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, Named Plaintiff's Release Payment, the Administration Expenses Payment, the PAGA Counsel Litigation Expenses Payment, and the PAGA Counsel Fees Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment and PAGA Counsel Fees Payment shall not precede disbursement of Individual PAGA Payments.

5.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 120 days after the date of mailing) when the check will be voided. The Administrator will send an explanation letter in the form of Exhibit A along with the Individual PAGA Payment. The explanation letter shall contain a statement explaining that the Individual PAGA payment is in consideration of the release and waiver of all of the PAGA claims related to those alleged in this Action, as described in Paragraph 1.31 and 6.3 of this Agreement, and that such release shall be effective whether or not the Aggrieved Employee deposits or cashes the check that has been mailed to him or her. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address database.

5.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without a USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

- 5.4.3. Settlement checks not cashed within 180 days will be void. Subject to Paragraph 5.4.5 below, the Administrator will then tender any voided amounts to the State Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 5.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.
- 5.4.5. If an Aggrieved Employee fails to receive a check or disputes the PAGA Pay Periods worked and timely notifies the Administrator of such an issue, the Administrator shall notify Defendant of the issue or dispute. In the event that Defendant approves a requested payment in writing, the Administrator may make payment to the Aggrieved Employee from any funds remaining from uncashed settlement checks that are voided under Paragraph 5.4.3 above. The remainder of any uncashed checks shall then be distributed to the State Controller's Unclaimed Property Fund in the name of the Aggrieved Employee as set forth in Paragraph 5.4.3.

6. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff, on her own behalf, on behalf of all Aggrieved Employees, and on behalf of the State of California, releases all Released Parties as follows:

6.1. Named Plaintiff's Release. Plaintiff for herself, her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all claims, liabilities and causes of action, of every nature, kind and description, in law, equity or otherwise, which have arisen, occurred or existed at any time prior to the signing of this Agreement. The released claims include, but are not limited to all claims, liabilities and causes of action arising out of or relating to Plaintiff's employment with Defendant or the cessation of that employment, claims for wrongful discharge, breach of contract, breach of the covenant of good faith and fair dealing, fraud, violation of public policy, defamation, discrimination, physical injury, emotional distress, claims under Title VII of the Civil Rights Act of 1964, as amended, the Americans With

Disabilities Act, the Federal Rehabilitation Act, the Family and Medical Leave Act, the California Fair Employment and Housing Act, the Equal Pay Act of 1963, the California Family Rights Act, the provisions of the California Labor Code (including all claims for wages, hours, conditions of work, pay, and benefits), and any other federal, state or local laws and regulations relating to employment, conditions of employment (including wage and hour laws) and/or employment discrimination. Notwithstanding the foregoing general releases, Plaintiff acknowledges that she has not made any claims or allegations related to discrimination, retaliation, or harassment, including sexual harassment, or sexual abuse, and none of the payments set forth as consideration in this Agreement are related to such discrimination, retaliation, or harassment, including sexual harassment, or sexual abuse. Plaintiff's release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits. Plaintiff acknowledges that she may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

6.2. Named Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

6.3. Release by Aggrieved Employees. For and in consideration of the mutual promises and consideration set forth in this Agreement, Plaintiff and the Aggrieved Employees, on behalf of themselves, and their heirs, successors, assigns, attorneys, and agents, hereby release and forever discharge the Released Parties from any and all Released PAGA Claims.

6.4. Release by Plaintiff on Behalf of the LWDA (and State of California). In her capacity as a private attorney general "aggrieved employee" acting on behalf of herself and as a proxy or agent of the LWDA and State of California, Plaintiff agrees to release Defendant and the Released

Parties, from any and all Released PAGA Claims against the Released Parties during the PAGA Period. Upon approval of this Agreement, Plaintiff, the LWDA, the State of California, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA and/or the State shall be barred from asserting any of the Released PAGA Claims in any future litigation, arbitration, or other legal forum. Any party to this Agreement may use the Agreement to assert that this Agreement and the Judgment to be entered by the Court following approval of this Agreement bars or limits any pending or later-filed action asserting any of the Released PAGA Claims against any of the Released Parties. The provisions of this paragraph apply regardless of whether Plaintiff and/or the Aggrieved Employees cash their Individual PAGA Payment checks.

7. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

7.1. Responsibilities of PAGA Counsel. PAGA Counsel is responsible for notifying the LWDA of the Settlement and preparing a motion for approval of the Settlement with Defendant's input. PAGA Counsel will submit the proposed settlement to the LWDA at the same time it submits it to the Court in accordance with Labor Code section 2699(l)(2). PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.

7.2. Plaintiff's Responsibilities. PAGA Counsel will prepare and deliver to Defense Counsel a draft of the motion for approval of the Settlement and a draft proposed Approval Order granting approval of the Settlement not later than 10 court days prior to the filing deadline. If the Parties disagree on any aspect of the proposed motion for approval of this Settlement and/or the proposed Approval Order, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.

7.3. Duty to Cooperate. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

8.1. Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators ("Phoenix") to serve as the Administrator and verified that, as a condition of

appointment, Phoenix agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for the Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating withholdings (if any) and providing reports to state and federal tax authorities.

8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a QSF under US Treasury Regulation section 468B-1.

8.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8.5. Tax Allocation of Payments. All payments made pursuant to this Agreement are penalties. Consequently, (a) one hundred percent (100%) of each Individual PAGA Payment shall be treated as penalties and allocated to ordinary income payable on a Form 1099; (b) each Aggrieved Employee shall be individually responsible for their share of taxes attributable to receipt of their Individual PAGA Payment; and (c) the Named Plaintiff's Release Payment will be treated as one-third (33.33%) wages and two-thirds (66.66%) penalties and interest, and the Named Plaintiff will receive a Form W-2 and a Form 1099 for such payments.

9. AGGRIEVED EMPLOYEE SIZE. Based on Defendant's records, as of the date of this Agreement, there are 2,185 Aggrieved Employees who worked a total 37,968 PAGA Pay Periods during the PAGA Period.

10. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, and pursuant to California Code of Civil Procedure section 664.6, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of: (i) enforcing this Agreement and/or Judgment; (ii) addressing settlement administration matters; and (iii) addressing such post-Judgment matters as are permitted by law.

11. ADDITIONAL PROVISIONS.

11.1. Right to Withdraw from Settlement. Either party may withdraw from the Settlement if: (i) the Settlement is construed in such a fashion that Cafe Rio is required to pay a Gross Settlement Amount that exceeds or is less than the amount the Parties agreed upon in this Agreement; (ii) the Court does not order the release of claims of the Aggrieved Employees agreed to by the Parties, or otherwise makes an order inconsistent with any of the material terms of the this Agreement; (iii) either Party or their counsel breaches the terms of this Agreement; or (iv) the LWDA or any other state or government agency seeks to intervene in the Action and/or commences an enforcement action. If one party exercises its right to withdraw from the settlement, then it will be solely responsible for any settlement administration costs incurred to date.

11.2. Reservation of Rights. If the Court does not approve the Settlement or if either Party withdraws from the Settlement, this Agreement is null and void except that the provisions on Confidentiality and on No Admission of Liability or Representative Manageability for Other Purposes will remain valid.

11.3. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in Plaintiff's Complaint have merit, that Defendant has any liability for any claims asserted, that Plaintiff is an appropriate representative of the Aggrieved Employees, that the Action is appropriate for class certification, or that a representative action could be manageably tried before a court. The Parties agree that representative treatment is for purposes of this Settlement only. If for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

11.4. Confidentiality. Plaintiff and PAGA Counsel agree not to disclose the terms of this Agreement or Settlement except in Court papers or if required by legal process. Plaintiff and PAGA Counsel shall not issue a press release, hold a press or media conference, publish information on any website or post on any social media or other electronic form, about the

Settlement, or otherwise publicize the Settlement, this Agreement, any negotiations leading to the Settlement, or any terms or conditions of the Settlement or this Agreement. Plaintiff and PAGA Counsel agree not to respond to any press inquiries except to refer reporters to the papers filed with the Court.

11.5. Integrated Agreement. Upon execution by the Parties and their counsel, this Agreement shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

11.6. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

11.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

11.8. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

11.9. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

11.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

11.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

11.12. Applicable Law. All terms and conditions of this Agreement will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

11.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

11.14. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

11.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by e-mail or messenger, addressed as follows:

To Plaintiff:

CROSNER LEGAL, PC
Zachary M. Crosner, Esq. (SBN 272295)
zach@crosnerlegal.com
Jamie Serb, Esq. (SBN 289601)
jamie@crosnerlegal.com
Brandon Brouillette, Esq. (SBN 273156)
bbrouillette@crosnerlegal.com
9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
Tel: (310) 496-5818
Fax: (310) 510-6429

To Defendant:

MORGAN, LEWIS & BOCKIUS LLP
Daryl S. Landy, Bar No. 136288
Nancy Nguyen, Bar No. 301677
Matthew M. Arnold, Bar No. 341862
600 Anton Boulevard, Suite 1800
Costa Mesa, CA 92626-7653
Tel: +1.714.830.0600
Fax: +1.714.830.0700
daryl.landy@morganlewis.com
nancy.nguyen@morganlewis.com
matthew.arnold@morganlewis.com

11.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or e-mail which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

11.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

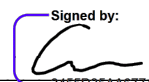
DIANA SERMENO

Date: 06 / 09 / 2025, 2025

By: 
Diana Sermeno

CAFE RIO, INC.

Date: 06/05, 2025

By: 
Its: CPO

Approved as to form only:

Date: June 9, 2025

By:

CROSNER LEGAL, PC

A handwritten signature in blue ink, appearing to read "Brandon Brouillette", written over a horizontal line.

Brandon Brouillette, Esq.
Attorneys for Plaintiff Diana Sermenio

MORGAN, LEWIS & BOCKIUS LLP

Date: June 5, 2025

By:

A handwritten signature in blue ink, appearing to read "Daryl S. Landy", written over a horizontal line.

Daryl S. Landy, Esq.
Attorneys for Defendant Cafe Rio, Inc.

EXHIBIT

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NOTICE OF REPRESENTATIVE PAGA ACTION SETTLEMENT

Diana Sermeno v. Cafe Rio, Inc.

Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You are eligible to receive money from a lawsuit brought pursuant to the Labor Code Private Attorneys General Act of 2004, California Labor Code §§ 2698, et seq. ("PAGA") (the "Action") against Cafe Rio, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by a former employee, Diana Sermeno ("Plaintiff") and seeks payment of civil penalties under PAGA for all current and former non-exempt, hourly-paid persons who Defendant employed at its California locations at any time from during the PAGA Period and who received pay for at least two (2) regular hours of work during a PAGA Pay Period (November 22, 2021, to September 4, 2024) ("Aggrieved Employees").

SUMMARY OF THE SETTLEMENT

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws, including by failing to pay overtime wages, minimum wages, reporting time pay, wages due upon termination, wages due during employment and at termination, and reimbursable expenses and failing to provide meal periods, rest breaks, accurate itemized wage statements. Based on these claims, Plaintiff seeks civil penalties under PAGA. Plaintiff is represented by attorneys in the Action ("PAGA Counsel"):

CROSNER LEGAL, PC

Zachary M. Crosner, Esq.

Jamie Serb, Esq.

Brandon Brouillette, Esq.

9440 Santa Monica Blvd. Suite 301

Beverly Hills, CA 90210

Tel: (310) 496-5818

Fax: (310) 510-6429

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that the Court has approved. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

- a. Defendant has paid \$240,000.00 as the Gross Settlement Amount (“Gross Settlement”). Defendant deposited the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator is using the Gross Settlement to pay the Individual PAGA Payments, General Release Payment to Plaintiff, PAGA Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). The Court entered Judgment on [insert date].
- b. Court Approved Deductions from Gross Settlement. The Court has approved the following deductions from the Gross Settlement:
 - A. \$80,000.00 (33% of the Gross Settlement) to PAGA Counsel for attorneys’ fees and \$[insert amount of approved costs] for their litigation expenses. To date, PAGA Counsel have worked and incurred expenses on the Action without payment.
 - B. \$10,000.00 as a General Release Payment to Plaintiff for filing the Action, working with PAGA Counsel and representing the Aggrieved Employees and the State of California, and for agreeing to a general release of all claims against Defendant. A General Release Payment will be the only money Plaintiff will receive other than Plaintiff’s Individual PAGA Payment.
 - C. [Insert amount of approved administration costs] to the Administrator for services administering the Settlement.
- c. Net Settlement Distributed to LWDA and to Aggrieved Employees. After making the above deductions in the amounts approved by the Court, the rest of the Gross Settlement (the “Net Settlement”) amounts to \$[insert Net Settlement Amount]. The Administrator will distribute the Net Settlement Amount to the LWDA and the Aggrieved Employees as follows: 75% to the LWDA and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.
- d. Designation of Individual PAGA Payments as Penalties. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payment is taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

- e. Need to Promptly Cash Payment Checks. The front of every check issued for Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

- f. You cannot opt-out of the Settlement. All Aggrieved Employees are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

- g. Administrator. The Court has appointed a neutral company, [insert name of Settlement Administrator Company] (the “Administrator”) to send this Notice and to calculate and make payments. The Administrator will also mail and re-mail Settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is as follows:

Name of Settlement Administrator Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

- h. Aggrieved Employees’ PAGA Release. Upon the Effective Date and the date when Defendant fully funded the entire Gross Settlement Amount, all Aggrieved Employees were barred from asserting PAGA claims against Defendant that were asserted in this Action and which arose during the PAGA Period. This means that all Aggrieved Employees cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or their related entities based on the facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ Release is as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from any and all claims under the California Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698 et seq., for the recovery of civil penalties, attorneys’ fees, and costs, which Plaintiff and/or the Aggrieved Employees had, or may claim to have, against Released Parties, arising out of the violations alleged in the Operative Complaint or Plaintiff’s November 22, 2022 PAGA Notice, or which reasonably could have been alleged based on the facts and legal theories contained in the Operative Complaint or the November 22, 2022 PAGA Notice, including, but not limited to, the following claims for alleged violations of California Labor Code sections 223, 226, 226.7, 227.3, 245-248.6, 351, 353, 432.5, 432.7, 1024.5, 1174, 1198, 1198.5, 1199, 2802, and 2810.5, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001.

The “Released Parties” are Defendant Cafe Rio, Inc. and its parent companies, subsidiaries, affiliates, related companies, owners, successors and assigns, in their individual and representative capacities, all persons acting by, through, and under, or in concert with any of them and all companies or entities that could be jointly liable with Defendant.

4. HOW DID THE ADMINISTRATOR CALCULATE MY PAYMENT?

The Administrator calculated Individual PAGA Payments by (a) dividing 25% of the Net Settlement Amount (i.e., \$[insert 25% of the Net Settlement Amount]) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

According to Defendant’s records, during the period **from November 22, 2021, through September 4, 2024 (i.e., the PAGA Period)** you worked for Defendant as an hourly-paid or non-exempt

employee in California who received pay for approximately [REDACTED] Pay Periods.

Under the terms of the Settlement, your Individual PAGA Payment is \$ [REDACTED].

5. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at [REDACTED]. You can also telephone or send an email to PAGA Counsel or the Administrator using the contact information listed herein. You can also consult the Superior Court website by going to <https://civilwebshopping.occourts.org> and entering the Case Number for the Action, Case No. 30-2023-01304494-CU-OE-CXC. You can also personally review court documents in the Clerk's Office at the Orange County Superior Court Central Justice Center.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

6. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the California Controller's Unclaimed Property Fund for instructions on how to retrieve the funds.

EXHIBIT

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Los Angeles Office
9440 Santa Monica Blvd.
Beverly Hills, CA 90210

Kiara Bramasco, Esq.
kiara@crosnerlegal.com
direct: (424) 335-5236
office: (310) 496-5818
fax: (310) 510-6429

November 22, 2022

VIA PAGA ONLINE FILING ONLY:

California Labor & Workforce
Development Agency
ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
PAGAFilings@dir.ca.gov

VIA U.S. CERTIFIED MAIL:

C T Corporation System,
Agent for Service of Process for:
Cafe Rio, Inc.
28 Liberty Street
New York, NY 10005

Cafe Rio, Inc.

CA Registered Corporate (1505) Agent Authorized
Employee(s): Amanda Garcia, Gabriela Sanchez, Daisy
Montenegro, Beatrice Casarez-Barrientez, Jessie Gastelum,
John Montijo, Diana Ruiz, Sarai Marin, Emanuel Jacobo,
Gladys Aguilera, Vivian Imperial, Carlos Paz, Alberto
Damonte, Peter Cayetano, Elsa Montanez, Xenia Perez,
and Yesenia Carpenter
330 N Brand Blvd
Glendale, CA 91203

Cafe Rio, Inc.
Attn: Human Resources/ Legal Department
1245 E. Brickyard Road
Salt Lake City, UT 84106

NOTICE OF PRIVATE ATTORNEYS GENERAL ACT CLAIM

To: California Labor and Workforce Development Agency and Cafe Rio, Inc.
Date: November 22, 2022
Subject: *Diana Sermeno v. Cafe Rio, Inc.*

Introduction

This office represents COMPLAINANT, Diana Sermeno (hereinafter “COMPLAINANT”) in connection with COMPLAINANT’s claims under the California Labor Code. COMPLAINANT was, at all relevant times herein mentioned, an employee of the following entity and individual managing agents of said entity: Cafe Rio, Inc. (hereinafter, this entity and its managing agents are collectively referred to as “EMPLOYER”). EMPLOYER may be contacted directly at the addresses listed above.

Pursuant to California Labor Code sections 2699.3 and 2699.5, COMPLAINANT, on behalf of COMPLAINANT, and on behalf of all current and former non-exempt employees employed by EMPLOYER in California within one year of the date of this notice (“NON-EXEMPT AGGRIEVED EMPLOYEES”) and on behalf of all current and former exempt employees employed by EMPLOYER in California within one year of the date of this notice (“EXEMPT AGGRIEVED EMPLOYEES”), hereby gives written notice (“NOTICE”) of COMPLAINANT’s claims against EMPLOYER. This NOTICE is being provided via online filing to the California Labor and Workforce Development Agency (“LWDA”) and EMPLOYER via certified mail to its Agent(s) for Service of Process and/or entity mailing address as provided to the California Secretary of State.

This NOTICE also serves to demonstrate COMPLAINANT’s reasonable attempt at settlement with EMPLOYER. If EMPLOYER is interested in settling this matter before a lawsuit is filed, EMPLOYER may contact Crosner Legal, P.C., at the address listed at the close of this NOTICE. This settlement attempt is in compliance with relevant California law. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal.4th 553, 561.

This NOTICE is sent in compliance with the reporting requirements of California Labor Code sections 2699.3 and 2699.5. This NOTICE further reserves any and all rights by COMPLAINANT to amend this notice to include, amend, or add further charges upon discovery of new violations of any of the provisions of the California Labor Code. In addition, to the extent that entities and/or other individuals are named and charged with violations of the Labor Code—making them liable

on an individual basis as permitted by numerous Labor Code sections including, but not limited to sections 558.1 and 1197.1—COMPLAINANT reserves any and all rights to add, substitute, or change the name of employer entities and/or individuals responsible for the violations at issue. Any further amendments and changes to this notice shall relate back to the date of this NOTICE. Consequently, EMPLOYER is on notice that COMPLAINANT continues its investigation, with the full intent to amend and/or change this notice, to add any undiscovered violations of *any* of the provisions of the California Labor Code—to the extent that are applicable to this case—and to change and/or add the identities of any entities and/or individuals responsible for the violations contained herein. For violations that are curable under § 2699.3(c) and that EMPLOYER intends to cure within the statutory time period set forth in §§ 2699 and 2699.3(c), the EMPLOYER shall provide notice including a description of the actions taken to cure. If the alleged violation is not cured within the statutory time period, COMPLAINANT will commence a civil action pursuant to section 2699. For all other violations that are not curable, an action pursuant to section 2699(a) and 2699(f) will commence after the requirements under 2699.3 are fulfilled.

Based on the following summary of facts and theories upon which COMPLAINANT will base COMPLAINANT's claims, COMPLAINANT requests that the LWDA regard this NOTICE as written notice of COMPLAINANT's intent to seek civil penalties against EMPLOYER.

COMPLAINANT, on behalf of COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES, alleges that the specific provisions of California law that EMPLOYER has violated, requiring this NOTICE, include but are not limited to: California Labor Code sections 201-203, 204, 216, 221-223, 226, 226.7, 245-248.5, 351-353, 432, 432.5, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

The Named Entities Are Joint Employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES

California courts have recognized that the definition of “employer” for purposes of enforcement of the California Labor Code goes beyond the concept of traditional employment to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of California's labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who directly or indirectly, or through an agent or any other person, engages, suffers, or permits any person to work or exercises control over the wages, hours, or working conditions of any person, may be liable for violations of the California Labor Code as to that person.

COMPLAINANT is informed and believes and thereon alleges that at all relevant times EMPLOYER and unknown entities operated as a single integrated enterprise with common ownership and centralized human resources as set forth herein. Under California law, in determining whether two defendant entities are liable as an integrated enterprise, courts consider four factors: (1) centralized control of labor relations; (2) interrelation of operations; (3) common management; and (4) common ownership or financial control. *Laird v. Capital Cities/ABC, Inc.*

(1998) 68 Cal.App.4th 727, 737 (overruled on other grounds, *Reid v. Google, Inc.* (2010) 50 Cal. 4th 512 (2010).)

COMPLAINANT believes and hereon asserts that EMPLOYER and unknown entities must be classified as joint employers of COMPLAINANT for purposes of liability for civil penalties under PAGA, as the aforementioned entities engaged, suffered and permitted COMPLAINANT to perform services from which they benefited, and furthermore that the aforementioned entities had the right to exercise control over the wages, hours and/or working conditions of COMPLAINANT at all relevant times herein, so as to be considered the joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES. By reason of their status as joint employers of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, they are each liable for civil penalties for violations of the California Labor Code and applicable Wage Orders as to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES.

Individual Liability Under Labor Code § 558.1

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. EMPLOYER, at all relevant times, was an employer or person acting on behalf of employer(s) who violated COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' rights by violating various sections of the California Labor Code. The California Legislature defines "other person acting on behalf of an employer" as "*a natural person who is an owner, director, officer, or managing agent of the employer.*" The "managing agent" definition mirrors that found in California's punitive damages statute (subdivision (b) of section 3294 of the Civil Code). Under that statute and supporting case law, "managing agents" are all employees who exercise substantial independent authority and judgment in their corporate decision-making such that their decisions ultimately determine corporate policy. *White v. Ultramar, Inc.* (1999) 21 Cal. 4th 563, 566-67. For the reasons set forth above and others, at all relevant times, any above-listed individuals meet the criteria of managing agents under California law, and therefore, may be held liable under California Labor Code sections 558 and 558.1 for violations of Labor Code §§ 203, 226, 226.7, and 1194 as further described in detail below.

COMPLAINANT intends to further name any unknown individuals responsible for violations arising under Labor Code sections 558 and 558.1 after further discovery. COMPLAINANT will ask the Court to relate the amendment of the PAGA charge and the operative complaint to the date of filing of these charges. COMPLAINANT asks and demands that EMPLOYER put these individuals on notice immediately to provide them as much notice possible to mount in defense. In the alternative, COMPLAINANT also offers to EMPLOYER to place those individuals on notice if EMPLOYER voluntarily provides their contact information.

General Information

EMPLOYER owns, operates or otherwise manages a multi-state restaurant business, with at least nineteen restaurants, stores, facilities, and/or locations in California, including but not limited to, the locations COMPLAINANT worked at in Menifee and Temecula, California, and other locations located throughout California, operating under the name Café Rio Mexican Grill.¹ Although EMPLOYER may operate a successful company/successful companies or have a noble mission, EMPLOYER does not comply with California's labor laws.

COMPLAINANT was employed by EMPLOYER as a non-exempt employee. COMPLAINANT worked for EMPLOYER as a tortilla maker and/or similar title from in or around August 2021 through in or around early March 2022. COMPLAINANT regularly worked for EMPLOYER out of EMPLOYER's location in Menifee, California, and at times, worked for EMPLOYER out of EMPLOYER's location in Temecula, California. COMPLAINANT regularly worked at least eight (8) to nine (9) hours per day. EMPLOYER paid COMPLAINANT an hourly rate for time counted by EMPLOYER as hours worked.

Among other things, EMPLOYER (1) failed and continues to fail to keep accurate and complete time records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES; (2) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked; (3) failed and continues to fail to pay COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES at least minimum wage for all hours worked and overtime/regular rates for corresponding work; (4) failed and continues to fail to pay proper overtime wages for failure to incorporate all non-discretionary compensation into the overtime premium pay calculations; (5) failed and continues to fail to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with proper meal and/or rest breaks, and/or compensate COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of premium pay at the regular rate of compensation for missed/improper meal and/or rest periods; (6) refused and continues to refuse to make and/or falsely denied the amount of payments due to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES, including but not limited to, owed sick pay; (7) failed and continues to fail to place COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES on proper notice of their workplace rights, including but not limited to owed sick pay; (8) failed and continues to fail to provide legally compliant wage statements to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES; (9) made unlawful deductions from COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' paychecks; (10) failed and continues to fail to timely pay wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES during employment and/or upon separation of employment; (11) failed and continues to fail to reimburse COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses incurred on behalf of EMPLOYER; (12) conducted and continues to conduct illegal criminal and/or financial background checks as a

¹ See <https://www.caferio.com/locations>. Last visited on November 21, 2022.

condition of COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' hire and continued employment; (13) required and continues to require COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to disclose arrests not resulting in convictions and/or to disclose convictions prior to extending an offer of employment and/or otherwise impermissibly inquired and continues to inquire into COMPLAINANT's, NON-EXEMPT AGGRIEVED EMPLOYEES', and/or EXPEMPT AGGRIEVED EMPLOYEES' criminal history on their employment applications and sign off on same as a condition of employment; (14) failed and continues to fail to pay all reporting time wages to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES; (15) failed and continues to fail to provide suitable seating and suitable resting facilities; and (16) required and continues to require COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a term or condition that violates the law as a condition of employment. Further descriptions of the above-mentioned violations and others are explained below.

Labor Code Violations

Recordkeeping Requirement Violations: California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, EMPLOYER failed, and continues to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES by virtue of EMPLOYER's time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

EMPLOYER failed and continues to fail to keep accurate and complete records showing total hours worked by virtue of EMPLOYER's failure to relieve COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, EMPLOYER further failed, and continues to fail, to record the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods.

Based on further information and belief, EMPLOYER further failed and continues to fail, to record the true start and end times of COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES' work shifts.

Additionally, EMPLOYER failed, and continues to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES.

EMPLOYER's failure to keep "accurate and complete" payroll records for COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.²

Violations of Labor Code Sections 226(b)-(c), 1198.5, and 432:

Time and Pay Records

Labor Code section 226 and all applicable IWC Wage Orders, section 7 require that employers keep the following information on file for each employee for a minimum of three years: The employee's dates of employment; the employee's hourly rates and the corresponding number of hours worked by the employee at each hourly rate, when the employee begins and ends each work period (including meal periods) and split intervals; total hours worked by the employee; all deductions; gross wages earned; and net wages earned.

Section (b) of Labor Code section 226 further requires employers to "afford current and former employees the right to inspect or receive a copy of records pertaining to their employment upon reasonable request to the employer." Section (c) of Labor Code section 226 provides that, "an employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction." An employer's failure to comply within this timeframe entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 226(f).

Personnel Records

In addition to their right to time and pay records, employees, and their representatives, have the right to inspect and receive a copy of their personnel files pursuant to Labor Code section 1198.5. This statute applies to both former and current employees. Labor Code section 432 further specifies that employers must furnish copies of all employment records bearing the employee's signature.

Labor Code section 1198.5 also requires that the file be made available for inspection or receipt within a "reasonable" amount of time, but "not later than 30 calendar days from the date the

² See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

employer receives a written request.” An employer’s failure to comply within this timeframe likewise entitles a current or former employee to recover a seven hundred fifty-dollar (\$750) penalty from the employer. Lab. Code section 1198.5(k).

Based on information and belief, EMPLOYER fails to timely produce or make available a current or former employee’s personnel records and/or payroll records when requested pursuant to Labor Code sections 226, 1198.5, 432, and/or the applicable Wage Order. For example, on April 5, 2022, COMPLAINANT, through her counsel, sent a written request for time, pay and personnel records to EMPLOYER. After EMPLOYER failed to respond within the time frames mandated by statute, COMPLAINANT, through counsel, sent a second written request for time, pay and personnel records on June 29, 2022. Yet, EMPLOYER failed to timely produce complete records within the time periods delineated by California labor law. Based on information and belief, EMPLOYER failed and continues to fail to timely produce complete time, payroll and personnel records when requested by other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES.

These violations subject EMPLOYER to penalties under Labor Code sections 226, 1198.5, and 2699. Each violation of each Labor Code section and Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE and each EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.

Meal Period Violations: California law requires employers to provide employees a duty-free, uninterrupted thirty (30) minute meal period when an employee works more than five (5) hours in a workday, and it must be provided within the first five (5) hours the employee works. Lab. Code section 512 (and all applicable IWC Wage Orders), section 11(A) and (C); *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. Employers must also provide employees with a second duty-free, uninterrupted thirty (30) minute meal period when an employee works more than (10) hours in a workday, and it must be provided before the end of the 10th hour of work. *Ibid.* Meal periods can be waived, but only under the following circumstances: (1) if an employee’s total work period in a day is over five (5) hours but no more than six (6) hours, the required meal period may be waived by mutual consent of the employer and employee, and (2) if an employee’s total work period in a day is over ten (10) hours but no more than twelve (12) hours, the required second meal period may be waived by mutual consent of the employer and employee, but only if the first meal period was not waived. *Ibid.* Upon information and belief, COMPLAINANT did not sign a valid meal period waiver throughout COMPLAINANT’s employment by EMPLOYER.

Employers covered by any and all applicable IWC Wage Orders have an obligation to both (1) relieve their employees for at least one meal period for shifts over five hours (see above), and (2) to record having done so. If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided. All applicable IWC Wage Orders, section 7(A)(3) (“Meal periods . . . shall also be recorded”); *Brinker, supra*, 53 Cal.4th 1004, 1052-1053, citing section 7(A)(3) (“If an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided”).

Employers must pay employees an additional hour of wages at the employees' regular rate of pay for each missed or unlawful meal period (e.g., less than 30 minutes, interrupted meal period, first meal period provided after five (5) hours, second meal period provided after 10 hours). Lab. Code § 226.7; all applicable IWC Wage Orders, §11(B) ("If an employer fails to provide an employee a meal period in accordance with the applicable provision of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided"); *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES consistently worked shifts of five and a one-half (5 ½) hours or more, entitling to at least one meal period.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would not receive legally compliant thirty (30) minute first meal breaks. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were consistently unable to take timely, off duty, thirty-minute, uninterrupted meal periods, often being forced to take late meal periods, interrupted meal periods, and/or work through part or all their meal periods due to understaffing, the nature and constraints of their job duties and/or commentary from supervisors pressuring them to take non-compliant meal breaks or skip meal breaks completely. For example, on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES from time to time had their meal periods interrupted and/or cut short and/or were forced to take their meal periods past the fifth hour of work due to the need to prep food, assist customers and/or complete other work tasks.

Based on information and belief, other NON-EXEMPT AGGRIEVED EMPLOYEES were consistently suffered and permitted to take meal periods past the fifth hour of work and/or had their meal periods interrupted, cut short, restricted to EMPLOYER's premises and/or otherwise on duty due to commentary from supervisors, understaffing, the nature and constraints of their job duties, and/or the need to meet EMPLOYER's goals and expectations.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during unpaid meal periods.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES to complete off-the-clock work prior to their scheduled shift time which EMPLOYER failed to take into account when scheduling meal periods for NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, meal periods were late, in part due to unaccounted pre-shift off-the-clock work.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its policies and practices resulted in the denial of uninterrupted meal periods which were free of EMPLOYER's control owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

Based on information and belief, per EMPLOYER's uniform policy and practice, NON-EXEMPT AGGRIEVED EMPLOYEES who worked shifts of more than ten hours did not receive a second legally compliant thirty (30) minute second meal break.

Based on information and belief, despite EMPLOYER's failure to provide lawful meal periods, EMPLOYER implemented a policy and/or practice of rounding the start and end times of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods and/or automatically deducting at least thirty minutes per shift for missed and/or otherwise unlawful meal periods (including meal periods restricted to EMPLOYER's premises), despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES did not receive lawful meal periods.

Moreover, based on information and belief, EMPLOYER failed to keep accurate records of the true start and end times of COMPLAINANT's and NON-EXEMPT AGGRIEVED EMPLOYEES' meal periods. Based on information and belief, to the extent meal period were recorded, EMPLOYER illegally rounded the start and end times of purported meal periods resulting in COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES not being paid for all time worked as well as late and/or shortened meal periods. *See Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58.

Based on information and belief, EMPLOYER failed to instruct COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES as to the timing and duty-free nature of meal periods. Based on further information and belief, EMPLOYER did not have a compliant written meal break policy, nor did EMPLOYER have any sort of compliant policy in practice. Liability for the NON-EXEMPT AGGRIEVED EMPLOYEES can be established by evidence that an employer adopted a uniform corporate break policy that failed to give full effect to California law and the applicable Wage Order requirements. The fact that employees may legally waive meal breaks does not affect this result. *Brinker, supra*, 53 Cal.4th 1004.

COMPLAINANT is further informed and believes and thereon alleges that EMPLOYER had actual and/or constructive knowledge that its time-rounding and/or auto-deduction policies and practices resulted in the denial of lawful meal periods owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's meal period laws.

EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of compensation for each workday a lawful meal period was not provided. EMPLOYER either failed to pay a meal period premium at all for each workday a lawful meal period was not provided and/or failed to pay the proper meal period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay and/or other non-discretionary compensation into the regular rate or compensation for purposes of calculating the owed meal period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, 512, and 1198-1199, and all applicable IWC Wage Orders, section 11(A) and (C) along with all applicable IWC Wage Orders. These violations subject EMPLOYER to civil penalties under Labor Code sections 558.1, 558 and 2699, and all applicable IWC Wage Orders, section 20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.³ EMPLOYER's failure to provide valid meal periods, and the automatic deduction for meal periods that were not provided/valid, ultimately results in further violations, such as violations of Labor Code sections 1174, 1199, 226.6, discussed above, and other violations discussed below.

Rest Period Violations: California law requires employers to provide employees a paid, duty-free ten (10) minute rest period for each four (4) hours worked, or major fraction thereof. *See* applicable IWC Wage Order, §12(A). In *Brinker v. Restaurant Corp.*, 53 Cal.4th 1004 (2012), the California Supreme Court held that employees are entitled to a 10-minute paid rest period for shifts from 3 ½ to 6 hours in length, two 10-minute rest periods for shifts more than 6 hours up to 10 hours, and three 10-minute rest periods for shifts of more than 10 hours up to 14 hours. (*Id.* at 1029). The rest period requirement obligates employers to permit and authorize employees to take off-duty rest periods, meaning employers must relieve employees of all duties and relinquish control over how employees spend their time. *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. Employers must pay employees an additional hour of wages at the employee's regular rate of pay for each missed or improper rest period (e.g., less than 10 minutes, interrupted rest period, rest period(s) at improper time(s) during shift(s)). Lab. Code §226.7; applicable IWC Wage Order, §12(B) ("If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided").

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

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "in addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

EMPLOYER did not properly authorize and provide COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES with legally compliant rest periods at a rate of every four (4) hours worked or major fraction thereof, that insofar as practicable, are provided in the middle of the work period, as required by law.

COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were not adequately informed, authorized, instructed about, nor permitted an opportunity to take proper rest breaks per California law. Based on information and belief, EMPLOYER had no policy in place nor instruction as to the taking of duty-free rest periods. Based on information and belief, EMPLOYER did not have a compliant written rest period policy, nor did EMPLOYER have any sort of compliant rest period policy in practice. For example, COMPLAINANT recalls being forced to work through an owed rest period on nearly every shift, if not every shift she worked for EMPLOYER due to lack of relief workers, the need to prep food, attend to customers and/or complete other work tasks.

Based on information and belief, EMPLOYER did not have a compliant policy in place nor instruction as to the taking, timing, or duty-free nature of rest periods. For example, on information and belief, EMPLOYER's written rest period policy fails/failed to inform NON-EXEMPT AGGRIEVED EMPLOYEES of their entitlement to an off-duty rest period for every four hours worked or major fraction thereof. Additionally, EMPLOYER failed to authorize and permit rest periods that were a "net" ten minutes in a suitable rest area and instead, to the extent rest periods were provided at all, limited NON-EXEMPT AGGRIEVED EMPLOYEES to only ten-minute rest periods, requiring them to be back at their workstations within ten minutes of leaving, in violation of California rest period law. EMPLOYER's failure to communicate that the rest period is a net ten minutes deprived NON-EXEMPT AGGRIEVED EMPLOYEES of their rights to a full rest period, as such as policy only relieves NON-EXEMPT AGGRIEVED EMPLOYEES from their workstation for ten minutes to travel to and from a rest area and be back at the workstation by the end of that ten minutes.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES' rest periods were interrupted, cut short, on duty, restricted to premises and/or late due to understaffing, the nature and constraints of their job duties, and/or due to commentary from supervisors/ managers pressuring NON-EXEMPT AGGRIEVED EMPLOYEES to skip rest breaks completely or otherwise take non-compliant rest periods.

Moreover, based on information and belief, EMPLOYER failed to provide any form of a third rest period on shifts lasting longer than ten hours.

Based on information and belief, EMPLOYER implemented policies and/or practices that failed to relieve COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and EMPLOYER's control during rest periods.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were pressured to complete their work duties according to a designated schedule such that rest breaks were only taken once tasks were completed, and/or as time permitted.

Furthermore, EMPLOYER failed to pay a rest period premium for each day in which NON-EXEMPT AGGRIEVED EMPLOYEES experienced a missed or otherwise unlawful rest period in violation of California law. *Bluford v. Safeway Stores, Inc.* (2013) 216 Cal. App. 4th 864, 872. EMPLOYER failed to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, an additional hour of wages at their respective regular rates of pay for each workday a proper rest period was not provided. EMPLOYER either failed to pay a rest period premium at all for each workday a lawful rest period was not provided and/or failed to pay the proper rest period premium for failure to incorporate all non-discretionary remuneration, including but not limited to, bonuses, shift differential pay, and/or other non-discretionary compensation into the regular rate of compensation for purposes of calculating the owed rest period premium.

The aforementioned conduct results in violations of Labor Code sections 226.7, and 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the referenced statutes and Wage Order provisions were violated.⁴

Minimum Wage Violations: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys’ fees, and costs of suit.” Labor Code section 1194.

Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. The minimum wage standard applies to each hour employees worked for which they were not paid. Pursuant to section 4 of the applicable Wage Order, “Every employer shall pay to each employee not less than the applicable minimum wage for all hours worked in the payroll period...” The applicable Wage Order defines “hours worked” 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.” See §2 of all applicable Wage Orders. Therefore, employers are required to pay employees for all time spent subject to the control of the employer and all time the employee is suffered or permitted to work. An employer’s failure

⁴ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”); and All applicable IWC Wage Orders, §20 (establishing that “[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid”).

to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324. Furthermore, "in any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon..." *Cal. Lab. Code* § 1194.2.

EMPLOYER failed to compensate COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked by virtue of EMPLOYER's automatic deduction and time rounding policies, and failure to relieve employees of all duties/employer control during unpaid meal periods or otherwise unlawful practices for missed or improper meal periods as explained above.

Based on information and belief, EMPLOYER implemented a policy and/or practice of rounding meal period start and end times and/or automatically deducting at least thirty minutes per shift for meal periods, despite having actual and/or constructive knowledge that COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were subject to EMPLOYER's control during purported meal periods and/or were otherwise not afforded with lawful meal periods, depriving COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES of all wages owed.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were not paid for all hours worked due to EMPLOYER's policy and/or practice of paying according to scheduled hours worked instead of actual time worked, and/or mandated off-the clock work policies and/or practices. For example, on information and belief, due to frequent scheduling issues and/or understaffing, NON-EXEMPT AGGRIEVED EMPLOYEES were often required after working at their scheduled facility/restaurant location to cover a shift at another of EMPLOYER's facilities/restaurants but were not compensated for the time spent driving to the second restaurant/facility, resulting in the underpayment of minimum and overtime wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. For example, on at least two occasions, COMPLAINANT recalls being required to leave EMPLOYER's restaurant/facility in Menifee and drive to EMPLOYER's Temecula restaurant/facility to finish off her shift at the Temecula restaurant/facility but was not paid for the time spent driving to the second restaurant/facility, resulting in at least thirty minutes of off-the-clock work each time this occurred and the underpayment of wages owed to COMPLAINANT. Based on information and belief, EMPLOYER had and has a continuous policy and practice of requiring NON-EXEMPT AGGRIEVED EMPLOYEES to travel between EMPLOYER's restaurant/facility locations without compensating NON-EXEMPT AGGRIEVED EMPLOYEES for the travel time, resulting in consistent off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER did not compensate NON-EXEMPT AGGRIEVED EMPLOYEES for time spent donning and doffing personal protective equipment

and/or uniforms/work clothing (e.g., gloves, protective eyewear, hairnets, aprons, hats, and/or face masks) during meal periods, before the start of a scheduled shift, and/or after completing a scheduled shift, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Additionally, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were required to perform other off-the-clock work for which they were not compensated. For example, on information and belief, at times, EMPLOYER's electronic employee time-keeping system malfunctioned such that NON-EXEMPT AGGRIEVED EMPLOYEES were required to either reinitiate and/or otherwise troubleshoot the system prior to being able to clock in and/or were unable to clock in at all for the start of their shifts and/or clock back in from meal periods, resulting in off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES experienced the same issues when clocking out for shifts and/or back in for meal periods. This time spent under EMPLOYER's control was not recorded and not compensated and resulted in unpaid minimum wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also pressured to complete at least some of their work tasks off-the-clock in order to meet EMPLOYER's goals and expectations. For example, on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES were also required to complete off-the-clock work outside of scheduled shifts due to work-related phone calls and/or messages they received to their personal phones and were required to respond to, including but not limited to, communications from supervisors regarding scheduling and/or other work tasks, resulting in the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Moreover, based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES who opened their work locations were required to first unlock the doors, turn on all the lights in the restaurant/facility and/or deactivate the alarm before clocking in for work, resulting in pre-shift off-the-clock work and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES. Based on further information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES in charge of closing their location(s) were required to first clock out for their shifts before enabling the alarm, turning off all the lights in the facility and/or locking the doors. This resulted in additional off-the-clock post-shift work that was not compensated and the underpayment of wages owed to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER failed to pay NON-EXEMPT AGGRIEVED EMPLOYEES for time they were required to spend completing orientation, policy questionnaires, and/or time spent completing the onboarding process including but not limited to reviewing various documents and policies provided by EMPLOYER. Based on information and belief, this work time was completed off-the-clock and was not compensated.

Based on further information and belief, EMPLOYER implemented a time-rounding system that as applied systematically deprived COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of compensable time because the time-rounding system implemented by

EMPLOYER would almost always, if not always, result in understating actual compensable work time. EMPLOYER's failure to pay for all time worked by virtue of its time-rounding practices resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

EMPLOYER's failure to pay for all time worked by virtue of its time rounding, auto-deduction policies and practices for unlawful meal periods, failure to provide lawful meal periods, and/or other off-the-clock work practices and policies, resulted in the underpayment of minimum wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES as well as unpaid overtime wages for those NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day and/or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER had actual and/or constructive knowledge that its time rounding policies/practices, auto-deduction policies and practices, failure to provide lawful meal periods and/or other off-the-clock work resulted in the underpayment of minimum wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California's minimum wage laws.

These violations subject EMPLOYER, to civil penalties under Labor Code sections 558, 558.1, 1197.1 and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁵

Overtime Violations: California law requires employers to pay overtime equal to one and one-half times the regular hourly rate of pay for each hour worked beyond eight (8) hours per workday and each hour worked beyond forty (40) hours per work week. Lab. Code §510; IWC Wage Order All applicable IWC Wage Orders §3. Employers must pay overtime equal to double the regular hourly rate of pay for each hour worked beyond twelve (12) hours per workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work in a work week. *Ibid.*

Based on information and belief, EMPLOYER violated California's overtime laws by, among other things, failing to correctly calculate, or record, the total number of hours worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and not paying proper overtime rates for overtime worked by virtue of same.

⁵ See Lab. Code §1197.1(a) (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable IWC Wage Orders, §20 (establishing that "[i]n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Namely, EMPLOYER's automatic deduction and time rounding policies and practices for meal periods, payment according to scheduled hours worked rather than actual time worked, off-the-clock/unpaid work completed during meal periods and/or time spent restricted to EMPLOYER's premises and/or subject to EMPLOYER's control during off-the-clock meal periods (described above), and/or other off-the-clock work resulted in the failure to account for all hours worked and thus the denial of minimum wages as well as overtime wages owed to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES who worked more than eight (8) hours in a day or more than forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay premium wage rate for all hours worked beyond eight (8) hours in a day or beyond forty (40) hours in a week.

Based on information and belief, EMPLOYER failed and continues to fail to pay twice NON-EXEMPT AGGRIEVED EMPLOYEES' regular rate(s) of pay for time worked beyond twelve (12) hours per workday and for time worked beyond eight (8) hours on the seventh consecutive day of work in a work week, in violation of California's overtime laws.

Based on information and belief, EMPLOYER sometimes paid NON-EXEMPT AGGRIEVED EMPLOYEES multiple rates of base pay in one workweek but failed to incorporate all multiple rates of base pay into the regular rate of pay for purposes of calculating the owed overtime rate. Based on information and belief, EMPLOYER failed to incorporate multiple base rates of pay earned in a workweek by NON-EXEMPT AGGRIEVED EMPLOYEES into the regular rate of pay used to calculate the owed overtime rate(s), resulting in unpaid wages to NON-EXEMPT AGGRIEVED EMPLOYEES.

Based on information and belief, EMPLOYER failed to incorporate all non-discretionary remuneration, including but not limited to, shift differential pay, multiple base rates of pay, bonus/incentive pay, and/or other non-discretionary pay into the regular rate of pay used to calculate the owed overtime rate(s), resulting in the miscalculation and underpayment of overtime wages owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

This conduct results in violations of Labor Code sections 218.5, 510, 558, 558.1, 1198-1199, and all applicable IWC Wage Orders, §12(A). These violations subject EMPLOYER to civil penalties under Labor Code sections 558, 558.1, 218.5, and 2699, and all applicable IWC Wage Orders, §20. Each violation of each Labor Code section and Wage Order provision results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the referenced statutes and Wage Order provisions were violated.⁶

⁶ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period"); Lab. Code §558 (establishing that the civil penalty is "for each underpaid employee for each pay period for which the employee was underpaid"); All applicable Wage Orders, §20 (establishing that "i>n addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty...for each underpaid employee for each pay period during which the employee was underpaid").

Violation of California Labor Code §§ 245-248.5: Throughout the relevant time period, EMPLOYER failed to provide proper paid sick leave to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES. EMPLOYER either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to EMPLOYER's premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay, commission and/or piece-rate compensation and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, EMPLOYER further failed to provide notice of the correct sick leave amount balance available to COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES on their wage statements or other written statement.

Based on information and belief, EMPLOYER failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, EMPLOYER failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, EMPLOYER failed to provide notice of sick leave amount balance left for COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES, thus affecting their intelligent exercise of their paid sick leave. But for this failure, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and COMPLAINANT seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES.

In violation of Labor Code section 247.5, EMPLOYER failed to maintain records documenting the hours worked and paid sick days accrued and used by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES, permitting the presumption that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were entitled to the maximum number of hours accruable under this article.

Upon information and belief, EMPLOYER further failed and continues to fail to comply with Labor Code section 246, by failing to provide COMPLAINANT and all NON-EXEMPT

AGGRIEVED EMPLOYEES with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

EMPLOYER unlawfully retained and continues to retain paid sick leave that should have been paid but was not, as a result of EMPLOYER's failure to properly institute a paid sick leave program.

On information and belief, COMPLAINANT alleges that all of these practices were experienced and continue to be experienced by other NON-EXEMPT AGGRIEVED EMPLOYEES.

COMPLAINANT requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to EMPLOYER's sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. COMPLAINANT requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave: Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, EMPLOYER violated Labor Code section 248.2 by not providing NON-EXEMPT AGGRIEVED EMPLOYEES with required 2021 COVID-19 Supplemental Paid Sick Leave.

Refusal to Make Payment: Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

EMPLOYER violated and continues to violate Labor Code section 216 by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES for all hours worked at the proper wage rate and by failing to pay COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject EMPLOYER to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.⁷

Wage Statement Violations: California law requires every employer semi-monthly or at the time of each payment of wages to furnish each of his or her employees with an accurate itemized wage statement in writing that contains the following: (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Cal. Lab. Code. section 226(a).

As EMPLOYER failed to provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with meal and rest periods that complied with Labor Code section 226.7, the wage statements EMPLOYER issued to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES failed and continue to fail to correctly set forth (a) the gross wages earned, in violation of Labor Code section 226(a)(1); (b) the total hours worked by the employee in violation of Labor Code section 226(a)(2); (c) the net wages earned, in violation of Labor Code section 226(a)(5); and (d) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of Labor Code section 226(a)(9).

EMPLOYER's wage statements that it provided to COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES also failed to indicate the earned gross and net wages earned during the pay period, the correct applicable rates of pay for all hours worked, and the "total hours worked" by COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES (by virtue of rounded time entries, automatic deduction for meal periods/failure to relieve NON-EXEMPT AGGRIEVED EMPLOYEES of all duties and employer control during unpaid meal periods, payment according to scheduled hours worked rather than actual hours worked, and/or other off-the-clock work policies and practices described above), which results in a violation of Labor Code section 226(a). Failure to list all hours worked on a wage statement, gives rise to an inference of injury under Labor Code Section 226 (*Maldonado v. Epsilon Plastics, Inc.*, (2018) 22 Cal.App.5th 1308, 1337).

EMPLOYER's failure to accurately list all hours worked on all wage statements caused confusion to COMPLAINANT and caused and continues to cause confusion to the NON-EXEMPT

⁷ Labor Code § 225.5 (establishing that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee") (emphasis added).

AGGRIEVED EMPLOYEES over whether they received all wages owed to them. COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES were injured by EMPLOYER's failure to provide accurate wage statements.

Based on information and belief, wage statements issued by EMPLOYER failed to list all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, in violation of, including but not limited to, Labor Code section 226(a)(9) due to EMPLOYER's failure to list an overtime rate category at all and/or failure to list a category containing the proper overtime rate. As described herein, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period, including but not limited to, non-discretionary bonus/incentive pay and/or shift differential pay and/or other non-discretionary compensation and/or multiple base rates of pay into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by NON-EXEMPT AGGRIEVED EMPLOYEES.

In addition, because of the violations detailed above, including but not limited to, not paying regular and overtime wages for all hours worked, not paying all sick leave wages at the proper rates, and failing to provide meal and rest break premiums, EMPLOYER has violated California Labor Code § 226 by willfully failing to furnish COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES with accurate, itemized wage statements. As described herein, based on information and belief, EMPLOYER also failed to incorporate all forms of non-discretionary compensation earned during the pay period into the overtime pay rate calculation, and as such, failed to display the proper overtime rate(s) for each hour of overtime worked by COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES.

Moreover, based on information and belief, EMPLOYER issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES that further violate Labor Code section 226(a), by among other things, failing to list the correct name and/or address of the legal entity that is the employer. For example, EMPLOYER's issued wage statements to COMPLAINANT identify "Café Rio, Inc." as the name of the employer. However, documents contained in COMPLAINANT's personnel file, including without limitation, EMPLOYER's 2810.5 notice to employee and/or other employee notices and/or policy documents identify "Café Rio Mexican Grill, Inc." as the name of the employer. As such, EMPLOYER's issued wage statements to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES did not include all of the statutorily required information, including but not limited to, the correct name and/or address of the legal entity that is the employer.

As a result, the wage statements provided to COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not accurate and did not include all of the statutorily required information.

These violations subject EMPLOYER to civil penalties under Labor Code section 226. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE

and each EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute provisions were violated.⁸

Semimonthly Payment Violations: Labor Code section 204 requires that all earned wages must be paid to employees twice during each calendar month. EMPLOYER violated this section by, including but not limited to, failing to pay COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES an additional hour of pay for meal and rest periods not provided and/or otherwise unlawful, by failing to compensate employees for all hours worked, and by failing to pay proper premium wage rates for all hours worked. These violations subject EMPLOYER to civil penalties under Labor Code section 210. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute's provisions were violated.

Violation of Labor Code section 351 and 352: Labor Code Section 351 prohibits employers and their agents from sharing in or keeping any portion of a gratuity left for or given to one or more employees by a patron. Furthermore, it is illegal for employers to make wage deductions from gratuities, or from using gratuities as direct or indirect credits against an employee's wages. Labor Code Section 353 mandates employers keep accurate records of all gratuities received.

Based on information and belief, EMPLOYER failed to ensure that NON-EXEMPT AGGRIEVED EMPLOYEES fully received the gratuities left for them by patrons, in that EMPLOYER and its agents would collect and/or take a portion of the gratuities for themselves, in violation of Labor Code Section 351. Based on further information and belief, EMPLOYER also failed/fails to keep accurate records of all tips received, in violation of Labor Code Section 353.

Pursuant to PAGA, EMPLOYER is liable for penalties of \$100 per pay period payable to each NON-EXEMPT AGGRIEVED EMPLOYEE for the first violation of Labor Code Section 351 and 353 they experienced within the statutory period, and \$200 per pay period for each additional violation.

Reporting Time Pay Violations:

Section 5 of all applicable IWC Wage Orders, including, IWC Wage Order No. 5 provides as follows:

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage. (B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting

⁸ See Lab. Code §226.3 (establishing that the civil penalty is "per employee per violation").

COMPLAINANT was not paid reporting time wages in accordance with California law, including but not limited to the applicable IWC Wage Order, including but not limited to, IWC Wage Order No. 5. For example, at times, COMPLAINANT reported to work for her scheduled shift but was sent home and/or was not put to work and was not paid her owed reporting time pay wages in accordance with California law.

Based on information and belief, EMPLOYER has a policy and practice of failing to pay all reporting time wages to NON-EXEMPT AGGRIEVED EMPLOYEES, in violation of California law, including but not limited to, the applicable IWC Wage Order, Section 5. EMPLOYER's failure to pay all reporting time wages to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violated and continues to violate the applicable Wage Order, including but not limited to IWC Wage Order 5-2001, section 5(A)-(B) and the California Labor Code, including but not limited to section 1198.

Failure to Provide Suitable Resting Facilities: Per Section 13 of all applicable IWC Wage Orders, employees shall be provided with suitable resting facilities. Section 13(B) of the Wage Orders provides: "Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours."

EMPLOYER's restaurants/locations are generally similar in layout and design, and there was, and continues to be, space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. EMPLOYER could have provided COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with a resting facility within the restaurant with reasonable or no modification, but instead denied and continues to deny, employees with suitable areas to rest (e.g. an adequate breakroom). As a result, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEEES were forced to adjust to areas not conducive to resting, including but not limited to leaning up against the restaurant wall.

EMPLOYER did not provide COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES with suitable resting facilities during their hours of work, particularly during meal and/or rest periods. Based on information and belief, COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES were not allowed to sit in the restaurant during working hours, including but not limited to, during rest periods, nor were they provided with a break room and/or adequate break room. Moreover, EMPLOYER did not inform COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of their rights to suitable resting facilities under California law.

EMPLOYER's failure to provide suitable resting facilities to COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES violated and continues to violate the applicable Wage Order, including but not limited to IWC Wage Order 5-2001, section 13(B) and the California Labor Code, including but not limited to section 1198.

Seating Violations: Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When 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.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, EMPLOYER failed to provide NON-EXEMPT AGGRIEVED EMPLOYEES with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that NON-EXEMPT AGGRIEVED EMPLOYEES were working. Lastly, based on information and belief, there were periods of time when NON-EXEMPT AGGRIEVED EMPLOYEES were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

EMPLOYER's NON-EXEMPT AGGRIEVED EMPLOYEES worked in various positions, including but not limited to, as tortilla makers, cooks, prep cooks, cashiers, and/or other similar title(s). The nature of COMPLAINANT's and other NON-EXEMPT AGGRIEVED EMPLOYEES' work reasonably permitted the use of seats. However, EMPLOYER failed to provide suitable seating in reasonable proximity to NON-EXEMPT AGGRIEVED EMPLOYEES' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting EMPLOYER to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.⁹

⁹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Standard Conditions of Labor Violations: Together, Labor Code sections 1198 and 1199 make unlawful any employment of any employee under conditions of labor prohibited by the Wage Orders, and any violation, refusal, or neglect to comply with any provision within Part 4, Chapter 1 of the Labor Code, including sections 1174, 1197, and 1198, or order or ruling of the commission.

Therefore, EMPLOYER's violations, including but not limited to, with respect to meal periods, rest periods, recordkeeping provisions, minimum wages and overtime wages, reporting time pay, suitable seating and resting facilities, and business expenses, result in separate violations of sections 1198 and 1199, which subject EMPLOYER to civil penalties under Labor Code sections 1197.1 and 2699.

Statutory Wage Violations: Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, EMPLOYER willfully and systematically denied COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. EMPLOYER acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, EMPLOYER paid COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES lower wages than those they were entitled to while purporting that COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES were properly paid. As such, COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off:

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, EMPLOYER had and continues to have a uniform policy and practice of failing to allow NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Final Pay Violations: Labor Code section 201 requires employers to pay all wages earned and unpaid at the time of discharge, immediately upon discharge. California Labor Code section 201(a) provides, in relevant part, that "[i]f an employer discharges an employee, the wages earned and

unpaid at the time of discharge are due and payable immediately.” California Labor Code section 202(a) provides, in relevant part, that “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Pursuant to Labor Code section 203, an employer that willfully fails to pay wages due an employee who is terminated or resigns must pay (in addition to the unpaid wages) a penalty equal to the employee's daily wages for each day, not exceeding 30 days, that the wages are unpaid. This 30-day waiting time penalty is recoverable under the PAGA via Labor Code Section 256. See, *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal.4th 348 (2014); see also, *Caliber Bodyworks, Inc. v. Superior Court*, 134 Cal. App. 4th 365 (2005).

Based on information and belief, EMPLOYER failed to timely pay NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES all wages that were due and owing upon termination or resignation. Based on information and belief, EMPLOYER untimely provides final wages to NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES without regard to the timing requirements of Labor Code sections 201-202.

Upon separation of employment, NON-EXEMPT AGGRIEVED EMPLOYEES’ and EXEMPT AGGRIEVED EMPLOYEES’ final paychecks were not timely provided and/or were not timely provided with all owed vacation pay and/or paid time off. Moreover, NON-EXEMPT AGGRIEVED EMPLOYEES’ final paychecks, once provided, did not include all wages owed as they were devoid of, including but not limited to, all owed minimum wages, overtime wages, premium wages, vacation pay, all owed sick leave and/or paid time off wages at the properly accrued rates.

These violations subject EMPLOYER to civil penalties under Labor Code sections 203, 210, and/or 256. Each violation results in a *separate* civil penalty, for each EXEMPT AGGRIEVED EMPLOYEE and each NON-EXEMPT AGGRIEVED EMPLOYEE for each pay period during which the statute provisions were violated.¹⁰

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

Among other things, under California law, when tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by employer, except that an employee whose wages are at least two (2) times the

¹⁰ (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, 1197.5, shall be subject to a civil penalty...for each failure to pay each employee”).

minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. *See* applicable IWC Wage Order, § 9 (b).

Among other things, under California law, when employees must use their personal cellphones for work-related purposes, the employer must reimburse them for a reasonable percentage of their cell phone bills. *See Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137, 1140. To show liability, an employee will only need to show that he or she was required to use their personal cellphone for work-related purposes and not reimbursed for the use. *Id.* 1144-1145. California law also requires employers to reimburse employees for automobile expenses incurred for the business use of personal vehicles, such as for mileage, gas, and the wear and tear on the vehicle. *See Gattuso v. Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554. Further, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State." *See* Cal. Lab. Code § 2804.

Based on information and belief, COMPLAINANT and NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to provide and maintain work tools that are supposed to be the responsibility of the employer.

Based on information and belief, EMPLOYER shifted its costs of doing business onto NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES by requiring them to pay for its business expenses, including but not limited to, uniforms/work clothing/shoes/protective and/or safety equipment and/or the use of NON-EXEMPT AGGRIEVED EMPLOYEES' and EXEMPT AGGRIEVED EMPLOYEES' personal mobile phone and data usage for work related purposes including but not limited to receiving and responding to work related messages and/or phone calls. For example, on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES received calls/messages to their personal cell phones/mobile devices from supervisors and/or other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES regarding scheduling and/or other work tasks but were not provided any and/or full reimbursement from EMPLOYER for this personal cell phone use. Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were not reimbursed for the cost of using their personal phone for work related purposes and/or the cost of purchasing and/or maintaining work uniforms/clothing/shoes/protective and/or safety equipment (e.g., face masks).

Based on information and belief, EMPLOYER required COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES to use their personal vehicles for work without reimbursing them for the personal vehicle expenses they incurred in connection therewith. For example, at times, EMPLOYER required COMPLAINANT to travel from one of EMPLOYER's facilities/restaurants to a second of EMPLOYER's facilities/restaurants for work without reimbursing COMPLAINANT for the expenses incurred in connection with EMPLOYER's business use of her personal vehicle. Based on information and

belief, EMPLOYER has a uniform policy and practice of failing to reimburse other NON-EXEMPT AGGRIEVED EMPLOYEES and/or EXEMPT AGGRIEVED EMPLOYEES for the costs associated with travelling between EMPLOYER's various facilities/restaurants, including but not limited to, mileage, wear and tear, and gas when they were required to use their personal vehicles to drive between EMPLOYER's facilities/restaurants and/or use their personal vehicles for other business purposes.

Based on information and belief, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were improperly required to pay for business expenses that are supposed to be the responsibility of EMPLOYER.

As a pattern and practice, EMPLOYER regularly failed to reimburse and indemnify NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for business expenses. Pursuant to California Labor Code section 2802, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES were entitled to be reimbursed for all reasonable expenses associated with carrying out EMPLOYER's orders and/or carrying out the duties assigned by EMPLOYER.

As described herein, EMPLOYER regularly failed to reimburse and indemnify COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES for all reasonable expenses associated with carrying out their job duties. EMPLOYER's failure to provide COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES with full reimbursement for all reasonable expenses associated with carrying out their duties required that COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES subsidize and/or carry the burden of business expenses in violation of Labor Code section 2802.

Unlawful Agreements/ Unlawful Criminal History Inquiries:

Unlawful Agreements

Labor Code section 432.5 provides that "no employer...shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer...to be prohibited by law." Based on information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful conditions of employment including but not limited, unlawful non-compete/non-solicitation agreements and/or unlawful confidentiality/nondisclosure agreements and/or unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers' ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act

(ICRAA- CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, EMPLOYER ordered unlawful financial credit checks on NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES, in violation of Labor Code section 1024.5, and required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA.

Based on information and belief, EMPLOYER required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FCRA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, EMPLOYER violated Labor Code section 432.5.

Based on information and belief, EMPLOYER also required NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to provide ongoing consent to EMPLOYER to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, EMPLOYER knew that requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree to unlawful

criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES agree in writing to unlawful provisions as a condition of employment, EMPLOYER violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, EMPLOYER asked NON-EXEMPT AGGRIEVED EMPLOYEES, and EXEMPT AGGRIEVED EMPLOYEES about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, EMPLOYER, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on its employment application in violation of California law.

By asking about arrests not resulting in convictions, EMPLOYER violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, EMPLOYER violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, EMPLOYER violated Labor Code section 432.5 by requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”)

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual

component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”)

Upon information and belief, EMPLOYER required COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES to agree, in writing, to an unlawful PAGA waiver, EMPLOYER required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, COMPLAINANT, NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES continue to be subject to various unlawful provisions as a condition of employment.

Conclusion

EMPLOYER has violated the above-referenced California Labor Code provisions, the applicable IWC Wage Order, including but not limited to all applicable Wage Orders, as well as other laws, and is liable for all applicable premium wages, statutory and civil penalties, interest, attorneys’ fees, and costs. The civil penalties COMPLAINANT and other NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES seek to recover include, but are not limited to, the statutory and civil penalties specified above.

Labor Code § 2699.3 requires that a claimant send a certified letter (i.e. this NOTICE) to the employer in question and file an online claim to the LWDA setting forth the claims and the basis for the claims, thereby giving the LWDA an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this NOTICE is to satisfy the requirements created by Labor Code §§ 2699, 2699.3(a), 2699.3(b), 2699.3(c), and 2699.5, prior to seeking penalties and premium wages allowed by law for the aforementioned statutory violations in a civil action. We look forward to determining whether the LWDA intends to take any action in reference to these claims. We kindly ask that you respond to this NOTICE according to the time frame contemplated by the code.

If the LWDA elects not to take any action with respect to any of the foregoing claims, COMPLAINANT will seek these penalties in a civil action, on behalf of COMPLAINANT and all NON-EXEMPT AGGRIEVED EMPLOYEES and EXEMPT AGGRIEVED EMPLOYEES of EMPLOYER within one year of the date of this letter as allowed by law.

Please advise if your office intends to investigate any of the factual and legal allegations and provide notice within sixty-five days of the date of this NOTICE to our office and to that of other charged parties. Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Kiara Bramasco
Crosner Legal, PC
9440 Santa Monica Blvd., Ste. 301
Beverly Hills, CA 90210
Main: 310.496.5818
Fax: 310.510.6429
Email: kiara@crosnerlegal.com

Thank you for your attention to this matter.

Best Regards,

A handwritten signature in cursive script that reads "Kiara Bramasco".

Kiara Bramasco, Esq.
CROSNER LEGAL, PC



Alberto Villavicencio <alberto@crosnerlegal.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "alberto@crosnerlegal.com" <alberto@crosnerlegal.com>

Tue, Nov 22, 2022 at 2:15 PM

11/22/2022

LWDA Case No. LWDA-CM-920879-22
Law Firm : Crosner Legal
Plaintiff Name : Diana Sermenio
Employer: Cafe Rio, Inc.
[Quoted text hidden]

EXHIBIT

4

EXHIBIT

5

Thank you for your Court Complaint Submission.

1 message

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
To: maria@crosnerlegal.com

Wed, Feb 15, 2023 at 3:18 PM

02/15/2023 03:18:22 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

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

EXHIBIT

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Diana Sermenov vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

SUMMARY OF ATTORNEY TIME / LODESTAR FEES

Total Attorneys' Hours: 114.7
Total Lodestar Fees: \$87,900.00

FIRM/ATTORNEYS	YEAR ADMITTED	HOURS	HOURLY RATE	TOTAL
CROSNER LEGAL, PC				
Brandon Brouillette	2010	53.2	\$800	\$42,560.00
Zachary Crosner	2010	40.1	\$850	\$32,080.00
Kiara Bramasco	2018	8.4	\$650	\$5,460.00
Branden Hamilton	2011	13	\$750	\$7,800.00
TOTAL**	--	114.7	--	\$87,900.00

***** This does not include anticipated attorney time to take the case through the approval process, attend the hearing and any supplemental hearings, provide supplemental briefings or declarations, work with defense counsel and settlement administrator regarding funding, distribution, tax forms, answer settlement group member questions, etc.***

Diana Sermenov vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

Crosner Legal Time Report Detailed
Branden Hamilton

Attorney	Hourly Rate	Date	Time Spent	Fee	Description of Work Performed
Branden Hamilton	\$600	7/13/22	0.3	\$180	Review internal deadlines, proofs of delivery of request, emails re record production extension request,
Branden Hamilton	\$600	11/21/22	1.4	\$840	Review intake, file, records review, prepare internal prelit case analysis, internal discussions re claims
Branden Hamilton	\$600	11/22/22	4.7	\$2,820	Review file, prelit case analysis, draft PAGA Notice, internal communications re filing paga notice
Branden Hamilton	\$600	1/26/23	5.5	\$3,300	Review file, review paga notice, internal discussions re claims and venue, draft PAGA Complaint for filing
Branden Hamilton	\$600	1/27/23	0.2	\$120	Internal emails re filing of complaint, revision to complaint, review of filing docs
Branden Hamilton	\$600	2/1/23	0.3	\$180	Internal discussions re judicial assignment, debt incorrectly named as a California corporation; review amendment to complaint, email correspondence re same
Branden Hamilton	\$600	2/15/23	0.1	\$60	Internal communications re uploading PAGA Complaint to LWDA

Diana Sermeno vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

Branden Hamilton	\$600	7/29/23	0.4	\$240	Review file, internal communications re status of case and drafting of arb demand
Branden Hamilton	\$600	8/1/23	0.1	\$60	Review internal correspondence re draft of arb demand, initiation of arb
TOTAL:	--		13	\$7,800	

Diana Sermenov vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

Crosner Legal Time Report Detailed
Brandon Brouillette

Attorney	Hourly Rate		Time Spent	Fee	Description of Work Performed
Brandon Brouillette	\$800	2/14/23	2.8	\$2,240	Draft and revise discovery requests, set one
Brandon Brouillette	\$800	2/22/23	0.1	\$80	Read and respond to email from OC
Brandon Brouillette	\$800	2/22/23	0.5	\$400	Call with OPC re case
Brandon Brouillette	\$800	3/10/23	0.1	\$80	Read and respond to email from OC
Brandon Brouillette	\$800	3/13/23	1.5	\$1,200	Review and analyze arbitration agreement; draft email to OC re same
Brandon Brouillette	\$800	3/28/23	0.1	\$80	Email to Maria re case file
Brandon Brouillette	\$800	3/29/23	3.6	\$2,880	Review and analyze facts and evidence; draft email summary to OC
Brandon Brouillette	\$800	4/21/23	1.8	\$1,440	Review and analyze Defendant's motion to compel arbitration
Brandon Brouillette	\$800	5/8/23	7.4	\$5,920	Draft and revise opposition to motion to compel arbitration
Brandon Brouillette	\$800	5/8/23	0.6	\$480	Draft and revise RJN
Brandon Brouillette	\$800	5/9/23	0.1	\$80	Read and respond to email from OC
Brandon Brouillette	\$800	5/16/23	0.2	\$160	Draft email to Maria re case management issues
Brandon Brouillette	\$800	5/23/23	1.5	\$1,200	Draft and revise stip and order to continue cmc
Brandon Brouillette	\$800	5/24/23	0.1	\$80	Attn to filing stip and order
Brandon Brouillette	\$800	6/6/23	0.1	\$80	Email to maria re calendar
Brandon Brouillette	\$800	6/30/23	4.5	\$3,600	Prepare for and attend hearing on Motion to Compel Arbitration
Brandon Brouillette	\$800	7/7/23	0.2	\$160	Email to Kiara re arbitration demand
Brandon Brouillette	\$800	8/1/23	1.2	\$960	Review and analyze arbitration demand; approve filing
Brandon Brouillette	\$800	11/28/23	0.2	\$160	Review and sign off on status report

Diana Sermenov vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

Brandon Brouillette	\$800	12/26/23	0.1	\$80	Email OC re mediators
Brandon Brouillette	\$800	1/30/23	0.1	\$80	Email OC re mediators
Brandon Brouillette	\$800	2/9/23	0.1	\$80	Email OC re mediators
Brandon Brouillette	\$800	5/20/24	0.2	\$160	Email OC re informal discovery
Brandon Brouillette	\$800	5/30/24	0.2	\$160	Email David Lowe re mediaiton data production
Brandon Brouillette	\$800	6/4/24	0.3	\$240	Review and sign confidentiality agreement
Brandon Brouillette	\$800	6/4/24	0.2	\$160	Email Berger re data analysis
Brandon Brouillette	\$800	6/5/24	7.4	\$5,920	Draft and revise mediation brief
Brandon Brouillette	\$800	6/6/24	1	\$800	Review and analyze damages analysis
Brandon Brouillette	\$800	6/6/24	7.5	\$6,000	Attend mediaiton
Brandon Brouillette	\$800	6/13/24	0.5	\$400	Discuss mediator's proposal with Zach
Brandon Brouillette	\$800	6/18/24	2.2	\$1,760	Review and revise MOU
Brandon Brouillette	\$800	7/10/24	0.3	\$240	Call with client re MOU
Brandon Brouillette	\$800	7/25/24	0.1	\$80	Read and respond to email from OC
Brandon Brouillette	\$800	9/26/24	0.2	\$160	Review and sign off on status report
Brandon Brouillette	\$800	10/21/24	0.1	\$80	Email OC re settlement agreement
Brandon Brouillette	\$800	11/22/24	0.1	\$80	Email OC re settlement agreement
Brandon Brouillette	\$800	1/29/25	0.1	\$80	Email OC re settlement agreement
Brandon Brouillette	\$800	4/10/25	0.2	\$160	Email admins re settlement admin quotes
Brandon Brouillette	\$800	4/10/25	2	\$1,600	Reiew and analyze draft settlement agreement
Brandon Brouillette	\$800	6/9/25	0.5	\$400	Review mediation analysis for approval motion; send email to Kirk
Brandon Brouillette	\$800	6/23/25	3	\$2,400	Review and revise Motion for PAGA Approval docs
Brandon Brouillette	\$800	7/28/25	0.2	\$160	Review and analyze OC edits to PAGA Approval Motion
TOTAL:	--		53.2	\$42,560	--

Diana Sermenov vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

Crosner Legal Time Report Detailed
Kiara Bramasco

Attorney	Hourly Rate	Date	Time Spent	Fee	Description of Work Performed
Kiara Bramasco	\$650	4/5/22	0.1	\$65	New case review
Kiara Bramasco	\$650	4/5/22	0.2	\$130	Emails re records request
Kiara Bramasco	\$650	11/21/22	0.6	\$390	Review of Records
Kiara Bramasco	\$650	11/21/22	0.1	\$65	Review of email re arb agreement
Kiara Bramasco	\$650	11/21/22	0.8	\$520	Review of arbitration agreement and emails re same
Kiara Bramasco	\$650	11/22/22	0.1	\$65	Review calendar deadlines
Kiara Bramasco	\$650	11/22/22	0.3	\$195	Email re arbitration agreement
Kiara Bramasco	\$650	11/22/22	0.9	\$585	Review of PAGA notice, discussion re claims
Kiara Bramasco	\$650	11/22/22	0.8	\$520	Review of prior settlement
Kiara Bramasco	\$650	1/27/23	0.1	\$65	Review calendar deadlines
Kiara Bramasco	\$650	1/27/23	0.6	\$390	Discussion re PAGA complaint
Kiara Bramasco	\$650	1/27/23	0.2	\$130	Emails re named Defendant
Kiara Bramasco	\$650	2/1/23	0.4	\$260	Finalizing prelit analysis
Kiara Bramasco	\$650	2/1/23	0.1	\$65	Email re complaint filed
Kiara Bramasco	\$650	2/1/23	0.3	\$195	Emails re type of complaint filed
Kiara Bramasco	\$650	7/24/23	2.8	\$1,820	Drafting arbitration demand
TOTAL:	\$650		8.4	\$5,460	

Diana Sermeno vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

Crosner Legal Time Report Detailed
Zachary Crosner

Attorney	Hourly Rate	Date	Time Spent	Fee	Description of Work Performed
Zachary Crosner	\$850	4/2/22	0.3	\$240	Review initial intake
Zachary Crosner	\$850	4/3/22	0.9	\$720	Review detailed intake & discuss internally
Zachary Crosner	\$850	4/5/22	0.7	\$560	Review records request/entities research
Zachary Crosner	\$850	4/11/22	0.7	\$560	Client update
Zachary Crosner	\$850	6/29/22	1.1	\$880	Case status discussion/Review 226 follow up letter
Zachary Crosner	\$850	11/20/22	0.5	\$400	Review/discuss/respond to letter from opposing counsel
Zachary Crosner	\$850	11/21/22	2.2	\$1,760	Review payroll/personell records & internal discussion related thereto
Zachary Crosner	\$850	11/21/22	2.4	\$1,920	Detailed review of arbitration agreement & associated research, internal discussion/correspondences related thereto
Zachary Crosner	\$850	11/22/22	2.8	\$2,240	Review/revise PAGA Notice
Zachary Crosner	\$850	11/24/22	1.1	\$880	Discussion with counsel in prior case about prior settlement, review of settlement, & new potential second plaintiff & internal discussion related thereto
Zachary Crosner	\$850	11/22/22	0.7	\$560	Internal discussion/analysis of potential roll out of arb agreements & severance agreements
Zachary Crosner	\$850	11/24/22	0.8	\$640	Review intake for potential second plaintiff and internal discussion
Zachary Crosner	\$850	1/14/23	3.1	\$2,480	Review/revise PAGA complaint
Zachary Crosner	\$850	1/17/23	0.8	\$640	Review of judge assigned
Zachary Crosner	\$850	1/24/23	0.3	\$240	Internal discusison re. correction to entity on complaint/service
Zachary Crosner	\$850	2/14/23	0.9	\$720	Review P's discovery
Zachary Crosner	\$850	2/21/23	1.3	\$1,040	Internal discussion/analysis of SOL

Diana Sermenov vs. Cafe Rio, Inc.
Orange County Superior Court Case No. 30-2023-01304494-CU-OE-CXC

					issue/filing arb demand timely, etc.
Zachary Crosner	\$850	3/28/23	0.3	\$240	Review notice of representation email, and case status discussion internally
Zachary Crosner	\$850	4/22/23	2.4	\$1,920	Review Def's motion to compel, associated research & discuss internally
Zachary Crosner	\$850	5/1/23	2.5	\$2,000	Review/take notes re. Def's discovery responses & doc production
Zachary Crosner	\$850	5/8/23	3.1	\$2,480	Review/revise P's oppo to motion to compel
Zachary Crosner	\$850	6/23/23	1.4	\$1,120	Review Def's reply to motion to compel
Zachary Crosner	\$850	7/31/23	2.7	\$2,160	Review/revise Arb demand
Zachary Crosner	\$850	8/15/24	0.5	\$400	Review Def's Answer to arb demand
Zachary Crosner	\$850	11/2/23	1.6	\$1,280	Review Arb commencement correspondence and discuss/review arbitrators internally
Zachary Crosner	\$850	5/23/24	0.7	\$560	Internal strategy session, discussion about mediation, mediators, postponing arb, etc.
Zachary Crosner	\$850	6/5/24	2.8	\$2,240	Mediation case review
Zachary Crosner	\$850	6/6/24	1.5	\$1,200	Mediation/settlement status updates/discussions
TOTAL			40.1	\$32,080	