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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

ANGEL ARIAS-BRANNON, individually,
and on behalf of other members of the
general public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiff,

vs.

JIB HOLDINGS I, LLC, a California
limited liability company; ALLIED
RESTAURANT MANAGEMENT, LLC, a
California limited liability company;
DESERT JACK, LLC, a California limited
liability company; ENVISION FOODS,
LLC, a California limited liability
company; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: BCV-23-100640

**CLASS ACTION COMPLAINT &
ENFORCEMENT ACTION UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of Labor Code § 1198 and California Code of Regulations, Title 8, Section 11050 Subdivision 5(A) (Failure to Provide Reporting Time Pay);
- (9) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);

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- (10) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (11) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (12) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Angel Arias-Brannon, individually and on behalf of all other members of the
2 public similarly situated, and as an aggrieved employee and on behalf of all aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

form a significant basis for Plaintiff's claims; and (d) no other class action has been filed within the past three (3) years on behalf of the same proposed class against Defendants asserting the same or similar factual allegations.

3. Venue is proper in this Court, because Defendants employ persons within the County of Kern, and have violated the requirements of the California Labor Code and applicable Wage Order in this county which give rise to the penalties sought in this action. Cal. Code Civ. P. § 393. Specifically, Defendants have violated the requirements of the California Labor Code and applicable Industrial Welfare Commission (“IWC”) Wage Order in at least two locations within the County of Kern, including Defendants’ restaurants in Mojave (15536 Highway 14, Mojave, California 93501), Ridgecrest (919 S. China Lake Boulevard, Ridgecrest, California 93555), Rosamond (3033 25th Street West, Rosamond, California 93560), and Tehachapi (801 Tucker Road, Tehachapi, California 93561). Pursuant to California Civil Code of Procedure section 393, venue is proper for the recovery of a penalty or forfeiture imposed by statute in the county in which the cause, or some part of the cause, arose. Because Defendants have employees in Kern County and Plaintiff could bring this action to recover penalties in Kern County, venue is proper.

THE PARTIES

4. Plaintiff Angel Arias-Brannon is a resident of Baker, California. Defendants employed Plaintiff as an hourly paid, non-exempt Cashier and Shift Lead from approximately July 2021 to June 2022. Plaintiff worked for Defendants at their Jack in the Box location in Baker, California. During his employment, Plaintiff typically worked eight (8) or more hours per day and five (5) or more days per week. Plaintiff's primary job duties included, without limitation, operating the cash register, cooking and preparing food, providing customer service, and cleaning his station.

5. JIB HOLDINGS I, LLC was and is, upon information and belief, a California limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county and the State of California.

6. ALLIED RESTAURANT MANAGEMENT, LLC was and is, upon

1 information and belief, a California limited liability company, and at all times hereinafter
2 mentioned, an employer whose employees are engaged throughout this county and the State of
3 California.

4 7. DESERT JACK, LLC was and is, upon information and belief, a California
5 limited liability company, and at all times hereinafter mentioned, an employer whose
6 employees are engaged throughout this county and the State of California.

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

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

14 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
15 were the partners, agents, owners, or managers of JIB HOLDINGS I, LLC; ALLIED
16 RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC; and ENVISION FOODS,
17 LLC (collectively, "JIB") at all relevant times.

18 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
19 acts and omissions alleged herein was performed by, or is attributable to, JIB HOLDINGS I,
20 LLC; ALLIED RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC; ENVISION
21 FOODS, LLC; and/or DOES 1 through 10, each acting as the agent, employee, alter ego,
22 and/or joint venturer of, or working in concert with, each of the other co-Defendants and was
23 acting within the course and scope of such agency, employment, joint venture, or concerted
24 activity with legal authority to act on the others' behalf. The acts of any and all Defendants
25 were in accordance with, and represent, the official policy of Defendants.

26 12. At all relevant times, Defendants, and each of them, ratified each and every act
27 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
28 and abetted the acts and omissions of each and all the other Defendants in proximately causing

1 the damages herein alleged.

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

5 14. Under California law, Defendants are jointly and severally liable as employers
6 for the violations alleged herein because they have each exercised sufficient control over the
7 wages, hours, working conditions, and employment status of Plaintiff and class members.
8 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
9 controlled their work schedule and/or conditions of employment, determined their rate of pay,
10 and maintained their employment records. Defendants suffered or permitted Plaintiff and
11 class members to work and/or “engaged” Plaintiff and class members so as to create a
12 common-law employment relationship. As joint employers of Plaintiff and class members,
13 Defendants are jointly and severally liable for the civil penalties available to Plaintiff and
14 class members under the law.

15 15. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
16 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
17 members because Defendants have:

- 18 (a) jointly exercised meaningful control over the work performed by
19 Plaintiff and class members;
- 20 (b) jointly exercised meaningful control over Plaintiff’s and class members’
21 wages, hours, and working conditions, including the quantity, quality
22 standards, speed, scheduling, and operative details of the tasks
23 performed by Plaintiff and class members;
- 24 (c) jointly required that Plaintiff and class members perform work which is
25 an integral part of Defendants’ businesses; and
- 26 (d) jointly exercised control over Plaintiff and class members as a matter of
27 economic reality in that Plaintiff and class members were dependent on
28 Defendants, who shared the power to set the wages of Plaintiff and class

1 members and determined their working conditions, and who jointly
2 reaped the benefits from the underpayment of their wages and
3 noncompliance with other statutory provisions governing their
4 employment.

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

8 17. JIB HOLDINGS I, LLC; ALLIED RESTAURANT MANAGEMENT, LLC;
9 DESERT JACK, LLC; ENVISION FOODS, LLC; and DOES 1 through 10 are therefore alter
10 egos of each other.

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

14 19. Plaintiff further alleges, upon information and belief, that Defendants JIB
15 HOLDINGS I, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; DESERT JACK,
16 LLC; and ENVISION FOODS, LLC are alter egos of each other for the following reasons:

- 17 (a) On the California Secretary of State's website
18 (<https://bizfileonline.sos.ca.gov/search/business>), JIB HOLDINGS I,
19 LLC; ALLIED RESTAURANT MANAGEMENT, LLC; DESERT
20 JACK, LLC; and ENVISION FOODS, LLC share the same principal
21 address and mailing address, "15401 Anacapa Road, Victorville, CA
22 92392;"
- 23 (b) On the California Secretary of State's website, JIB HOLDINGS I, LLC;
24 ALLIED RESTAURANT MANAGEMENT, LLC; DESERT JACK,
25 LLC; and ENVISION FOODS, LLC share the same agent for service of
26 process, "Navid Sharafatian;" and
- 27 (c) On information and belief, JIB HOLDINGS I, LLC; ALLIED
28 RESTAURANT MANAGEMENT, LLC; DESERT JACK, LLC; and

1 ENVISION FOODS, LLC utilize the same standardized employment
2 forms, including, but not limited to, employee scheduling forms, and
3 issue the same employment policies.

4 **GENERAL ALLEGATIONS**

5 20. Defendants operate approximately 120 Jack in the Box franchise restaurant
6 locations in three (3) states, including at least 50 restaurant locations in California. Upon
7 information and belief, Defendants maintain a single, centralized Human Resources (“HR”)
8 department at their corporate headquarters in Victorville, California, which is responsible for
9 the recruiting and hiring of new employees, and communicating and implementing
10 Defendants’ company-wide policies, including timekeeping policies and meal and rest period
11 policies, to employees throughout California.

12 21. In particular, Plaintiff and class members, on information and belief, received
13 the same standardized documents and/or written policies. Upon information and belief, the
14 usage of standardized documents and/or written policies, including new-hire documents,
15 indicate that Defendants dictated policies at the corporate level and implemented them
16 company-wide, regardless of their employees’ assigned locations or positions.

17 22. Upon information and belief, Defendants maintain a centralized Payroll
18 department at their corporate headquarters in Victorville, California, which processes payroll
19 for all non-exempt, hourly paid employees working for Defendants at their various locations
20 in California, including Plaintiff and class members. Based upon information and belief,
21 Defendants issue the same formatted wage statements to all non-exempt, hourly paid
22 employees in California, irrespective of their work locations. Upon information and belief,
23 Defendants process payroll for departing employees in the same manner throughout the State
24 of California, regardless of the manner in which each employee’s employment ends.

25 23. Defendants continue to employ non-exempt or hourly paid employees in
26 California.

27 24. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants were advised by skilled lawyers and other professionals, employees

1 and advisors knowledgeable about California labor and wage law, employment and personnel
2 practices, and about the requirements of California law.

3 25. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
4 members were not paid for all hours worked because all hours worked were not recorded.

5 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to receive certain wages for
7 overtime compensation and that they were not receiving certain wages for overtime
8 compensation.

9 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and/or class members were entitled to be paid at a regular
11 rate of pay, and corresponding rates of pay for overtime wages and/or meal and rest period
12 premiums that included as eligible income all remuneration required by law, including but not
13 limited to, all income derived from incentive pay, nondiscretionary bonuses, and/or other
14 forms of compensation, but failed to include all forms of remuneration in calculating the
15 regular rate of pay for Plaintiff and/or class members.

16 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and class members were entitled to receive at least minimum
18 wages for compensation and that they were not receiving at least minimum wages for work
19 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
20 and class members were not paid at least minimum wages for work done off-the-clock.

21 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and class members were entitled to meal periods in
23 accordance with the California Labor Code and applicable IWC Wage Order or payment of
24 one (1) additional hour of pay at their regular rates of pay when they were not provided with
25 timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and class members
26 were not provided with all meal periods or payment of one (1) additional hour of pay at their
27 regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal
28 period.

1 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and class members were entitled to rest periods in
3 accordance with the California Labor Code and applicable IWC Wage Order or payment of
4 one (1) additional hour of pay at their regular rates of pay when they were not authorized and
5 permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiff
6 and class members were not authorized and permitted to take compliant rest periods, nor did
7 Defendants provide Plaintiff and class members with payment of one (1) additional hour of
8 pay at their regular rates of pay when they were not authorized and permitted to take a
9 compliant rest period.

10 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and class members were entitled to receive complete and
12 accurate wage statements in accordance with California law. In violation of the California
13 Labor Code, Plaintiff and class members were not provided complete and accurate wage
14 statements.

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

19 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to timely payment of all
21 wages earned upon termination of employment. In violation of the California Labor Code,
22 Plaintiff and class members did not receive payment of all wages due, including, but not
23 limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting
24 time pay, within permissible time periods.

25 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and class members were entitled to timely payment of wages
27 during their employment. In violation of the California Labor Code, Plaintiff and class
28 members did not receive payment of all wages, including, but not limited to, overtime wages,

1 minimum wages, meal and rest period premiums, and/or reporting time pay, within
2 permissible time periods.

3 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to receive all reporting time
5 pay when Plaintiff and class members were required to report to work but were put to work
6 for less than half of their usual or scheduled shift. In violation of the California Labor Code
7 and applicable IWC Wage Order, Plaintiff and class members were not paid all reporting time
8 pay.

9 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and class members were entitled to sit when it did not
11 interfere with the performance of their duties and also have seats nearby to use during a lull in
12 tasks that do require moving about or standing. In violation of the California Labor Code and
13 applicable IWC Wage Order, Defendants failed to provide Plaintiff and class members with
14 suitable seating.

15 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and class members were entitled to receive full
17 reimbursement for all business-related expenses and costs they incurred during the course and
18 scope of their employment and that they did not receive full reimbursement of applicable
19 business-related expenses and costs incurred.

20 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
21 mentioned, Defendants knew or should have known that Defendants had a duty to provide
22 Plaintiff and class members with written notice of the material terms of their employment with
23 Defendants as required by the California Wage Theft Prevention Act, but failed to do so.

24 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, Defendants knew or should have known that they had a duty to compensate
26 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
27 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
28 falsely represented to Plaintiff and class members that they were properly denied wages, all in

1 order to increase Defendants' profits.

2 **PAGA REPRESENTATIVE ALLEGATIONS**

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

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

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

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

18 (a) The aggrieved employee or representative shall give written notice by
19 online filing with the LWDA and by certified mail to the employer of
20 the specific provisions of the California Labor Code alleged to have
21 been violated, including the facts and theories to support the alleged
22 violation.

23 (b) An aggrieved employee's notice filed with the LWDA pursuant to
24 2699.3(a) and any employer response to that notice shall be
25 accompanied by a filing fee of seventy-five dollars (\$75).

26 (c) The LWDA shall notify the employer and the aggrieved employee or
27 representative by certified mail that it does not intend to investigate the
28 alleged violation ("LWDA Notice") within sixty (60) calendar days of

1 the postmark date of the aggrieved employee's notice. Upon receipt of
2 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
3 (65) calendar days of the postmark date of the aggrieved employee's
4 notice, the aggrieved employee may commence a civil action pursuant
5 to California Labor Code section 2699 to recover civil penalties.

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

- 10 (a) The aggrieved employee or representative shall give written notice by
11 online filing with the LWDA and by certified mail to the employer of
12 the specific provisions of the California Labor Code alleged to have
13 been violated (other than those listed in Section 2699.5), including the
14 facts and theories to support the alleged violation.
- 15 (b) An aggrieved employee's notice filed with the LWDA pursuant to
16 2699.3(c) and any employer response to that notice shall be
17 accompanied by a filing fee of seventy-five dollars (\$75).
- 18 (c) The employer may cure the alleged violation within thirty-three (33)
19 calendar days of the postmark date of the notice sent by the aggrieved
20 employee or representative. The employer shall give written notice
21 within that period of time by certified mail to the aggrieved employee or
22 representative and by online filing with the LWDA if the alleged
23 violation is cured, including a description of actions taken, and no civil
24 action pursuant to Section 2699 may commence. If the alleged violation
25 is not cured within the 33-day period, the aggrieved employee may
26 commence a civil action pursuant to Section 2699.

27 45. On December 14, 2022, Plaintiff provided written notice by online filing to the
28 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor

1 Code alleged to have been violated, including facts and theories to support the alleged
2 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
3 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
4 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
5 Plaintiff PAGA Case Number LWDA-CM-924449-22. A true and correct copy of Plaintiff's
6 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

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

10 47. Thus, Plaintiff has satisfied the administrative prerequisites under California
11 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
12 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
13 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

14 48. Labor Code section 558(a) provides "[a]ny employer or other person acting on
15 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
16 provision regulating hours and days of work in any order of the Industrial Welfare
17 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
18 dollars (\$50) for each underpaid employee for each pay period for which the employee was
19 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
20 underpaid employee for each pay period for which the employee was underpaid. . . ." Labor
21 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
22 to any other civil or criminal penalty provided by law."

23 49. Defendants, at all times relevant to this complaint, were employers or persons
24 acting on behalf of an employer(s) who violated Plaintiff's and other aggrieved employees'
25 rights by violating various sections of the California Labor Code as set forth above.

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

51. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

CLASS ACTION ALLEGATIONS

52. Plaintiff brings this action on his own behalf, as well as on behalf of each and all other persons similarly situated, and thus seeks class certification under California Code of Civil Procedure section 382.

53. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

54. Plaintiff's proposed class consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California, at any time from November 16, 2019, until the date of trial (“Class”).

55. Plaintiff's proposed subclass consists of and is defined as follows:

All persons who worked for Defendants as non-exempt, hourly paid employees in California and who received at least one wage statement within one (1) year prior to the filing of the initial complaint until the date of trial (“Subclass”).

56. Members of the Class and Subclass are referred to herein as “class members.”

57. Plaintiff reserves the right to redefine the Class and Subclass and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

58. There are common questions of law and fact as to class members that predominate over questions affecting only individual members, including, but not limited to:

(a) Whether Defendants required Plaintiff and class members to work over eight (8) hours per day, over twelve (12) hours per day, or over forty (40) hours per week and failed to pay all legally required overtime

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- compensation to Plaintiff and class members;
- (b) Whether Defendants failed to include all forms of remuneration in the “regular rate” of pay as required by law for purposes of paying overtime wages and/or meal and rest period premiums to Plaintiff and/or class members;
- (c) Whether Defendants failed to pay Plaintiff and class members at least minimum wages for all hours worked;
- (d) Whether Defendants failed to provide Plaintiff and class members meal periods;
- (e) Whether Defendants failed to authorize and permit Plaintiff and class members to take rest periods;
- (f) Whether Defendants provided Plaintiff and class members with complete and accurate wage statements as required by California Labor Code section 226(a);
- (g) Whether Defendants maintained accurate payroll records as required by California Labor Code section 1174(d);
- (h) Whether Defendants failed to pay earned overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay due to Plaintiff and class members upon their discharge;
- (i) Whether Defendants failed to timely pay overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay to Plaintiff and class members during their employment;
- (j) Whether Defendants required Plaintiff and class members to report to work, but failed to provide them with work or provided them with less than half their usual or scheduled day’s work, without properly compensating them as required by California Code of Regulations, Title 8, section 11050(5);
- (k) Whether Defendants failed to provide Plaintiff and class members with

1 suitable seating;

- 2 (l) Whether Defendants failed to reimburse Plaintiff and class members for
3 necessary and required business-related expenditures and/or losses
4 incurred by them in the scope of their employment;
- 5 (m) Whether Defendants failed to provide written notice of information
6 material to Plaintiff's and class members' employment with Defendants;
- 7 (n) Whether Defendants engaged in unlawful and unfair business practices
8 in violation of California Business & Professions Code sections 17200,
9 *et seq.*; and
- 10 (o) The appropriate amount of damages, restitution, or monetary penalties
11 resulting from Defendants' violations of California law.

12 59. There is a well-defined community of interest in the litigation and the class
13 members are readily ascertainable:

- 14 (a) Numerosity: The class members are so numerous that joinder of all
15 members would be unfeasible and impractical. The membership of the
16 entire class is unknown to Plaintiff at this time; however, the class is
17 estimated to be greater than one hundred (100) individuals and the
18 identity of such membership is readily ascertainable by inspection of
19 Defendants' employment records.
- 20 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
21 protect the interests of each class member with whom he has a well-
22 defined community of interest, and Plaintiff's claims (or defenses, if
23 any) are typical of all class members as demonstrated herein.
- 24 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
25 protect the interests of each class member with whom he has a well-
26 defined community of interest and typicality of claims, as demonstrated
27 herein. Plaintiff acknowledges that she has an obligation to make
28 known to the Court any relationship, conflicts or differences with any

1 class member. Plaintiff's attorneys, the proposed class counsel, are
2 versed in the rules governing class action discovery, certification, and
3 settlement. Plaintiff has incurred, and throughout the duration of this
4 action, will continue to incur costs and attorneys' fees that have been,
5 are, and will be necessarily expended for the prosecution of this action
6 for the substantial benefit of each class member.

7 (d) Superiority: The nature of this action makes the use of class action
8 adjudication superior to other methods. A class action will achieve
9 economies of time, effort, and expense as compared with separate
10 lawsuits, and will avoid inconsistent outcomes because the same issues
11 can be adjudicated in the same manner and at the same time for the
12 entire class.

13 (e) Public Policy Considerations: Employers in the State of California
14 violate employment and labor laws every day. Current employees are
15 often afraid to assert their rights out of fear of direct or indirect
16 retaliation. Former employees are fearful of bringing actions because
17 they believe their former employers might damage their future
18 endeavors through negative references and/or other means. Class
19 actions provide the class members who are not named in the complaint
20 with a type of anonymity that allows for the vindication of their rights
21 while simultaneously protecting their privacy.

22 **FIRST CAUSE OF ACTION**

23 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime**

24 **(Against all Defendants)**

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

27 61. Labor Code section 1198 makes it illegal to employ an employee under
28 conditions of labor that are prohibited by the applicable wage order. California Labor Code

1 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
2 be the . . . standard conditions of labor for employees. The employment of any employee . . .
3 under conditions of labor prohibited by the order is unlawful.”

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

8 63. Specifically, the applicable IWC Wage Order provides that Defendants are and
9 were required to pay Plaintiff and class members working more than eight (8) hours in a day
10 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
11 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
12 workweek.

13 64. The applicable IWC Wage Order further provides that Defendants are and were
14 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
15 overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s
16 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
17 employee, including shift differential pay, nondiscretionary bonuses and incentive pay.

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

24 66. During the relevant time period, Defendants willfully failed to pay all overtime
25 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
26 class members were not paid overtime premiums for all of the hours they worked in excess of
27 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
28 hours in a week, because all hours worked were not recorded.

1 67. During the relevant time period, Defendants had, and continue to have, a
2 company-wide policy and/or practice of requiring Plaintiff and class members to perform
3 tasks off-the-clock before and after their scheduled shifts, and on their days off. For example,
4 because Defendants' timekeeping system was integrated with the company's point-of-sale
5 ("POS") system, Plaintiff and class members would often have to wait to clock in for the start
6 of their shifts, because other employees were using the POS system to handle customer
7 transactions. For instance, Plaintiff was required to wait under Defendants' control until a
8 POS machine was available for clocking in, time for which he was not paid. Additionally,
9 Defendants' timekeeping system prevented employees from clocking in before their scheduled
10 shifts, prohibiting them from recording time worked prior to the start of their scheduled shifts.
11 Consequently, on information and belief, Plaintiff and class members performed work prior to
12 the start of their shifts, but were unable to record this time.

13 68. As another example, after clocking out, Plaintiff was regularly required to
14 spend two (2) minutes performing closing duties—turning off lights, activating the alarm, and
15 locking the store, tasks he was required to complete before leaving at the end of his shift.
16 Moreover, approximately twice per month, Defendants' supervisors contacted Plaintiff on his
17 personal cellular phone about work-related matters when he was not scheduled to work, but
18 did not compensate him for this time. Thus, Defendants failed to track the time Plaintiff and
19 class members spent working before and after their scheduled shifts, and Plaintiff and class
20 members received no compensation for this time.

21 69. Defendants knew or should have known that as a result of these company-wide
22 practices and/or policies, Plaintiff and class members were performing their assigned duties
23 off-the-clock before and after their shifts, and were suffered or permitted to perform work for
24 which they were not paid. Because Plaintiff and class members sometimes worked shifts of
25 eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock
26 work qualified for overtime premium pay. Therefore, Plaintiff and class members were not
27 paid overtime wages for all of the overtime hours they actually worked.

28 70. Defendants' failure to pay Plaintiff and class members the balance of overtime

1 compensation as required by California law, violates the provisions of California Labor Code
2 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
3 members are entitled to recover from Defendants their unpaid overtime compensation, as well
4 as interest, costs, and attorneys' fees.

5 **SECOND CAUSE OF ACTION**

6 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 7 **Minimum Wages** 8 **(Against all Defendants)**

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

11 72. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
12 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
13 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
14 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as “the
15 time during which an employee is subject to the control of an employer, and includes all the
16 time the employee is suffered or permitted to work, whether or not required to do so.” Cal.
17 Code Regs. Tit. 8, § 11050(2)(K) (defining “Hours Worked”).

18 73. As stated above, Defendants had company-wide policies and/or practices
19 requiring Plaintiff and class members to perform various work-related tasks while off-the-
20 clock, including waiting to clock in for the start of their shifts because other employees were
21 using the POS system, completing closing duties after clocking out, and/or responding to
22 communications on their personal mobile devices. Thus, Defendants failed to track this time
23 Plaintiff and class members spent working off-the-clock, and Plaintiff and class members
24 received no compensation for this time.

25 74. Defendants did not pay minimum wages for all hours worked by Plaintiff and
26 class members. To the extent that these off-the-clock hours did not qualify for overtime
27 premium payment, Defendants did not pay at least minimum wages for those hours worked
28 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and

1 1198.

2 75. Defendants' failure to pay Plaintiff and class members minimum wages violates
3 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
4 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover from
5 Defendants liquidated damages in an amount equal to the wages unlawfully unpaid and
6 interest thereon.

7 **THIRD CAUSE OF ACTION**

8 **Violations of California Labor Code §§ 226.7, 512(a), 516, and 1198—Meal Period**

9 **Violations**

10 **(Against all Defendants)**

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

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

20 78. At all relevant times herein set forth, California Labor Code sections 226.7,
21 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
22 meal period mandated by an applicable order of the IWC.

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

1 80. During the relevant time period, on information and belief, Defendants had, and
2 continue to have, a company-wide policy and/or practice of strictly staffing their restaurant
3 locations based on the labor hours or labor budget set by corporate for each location. On
4 information and belief, Defendants' uniform use of labor budgets, combined with heavy
5 workloads, resulted in chronic understaffing and a failure to provide Plaintiff and class
6 members with adequate meal period coverage, because there were too few employees on duty
7 to handle the workload and attend to customers. Because Defendants did not employ or staff a
8 sufficient number of employees to meet customer demand, there was no one available to
9 relieve employees needing meal period coverage, and Plaintiff and class members were not
10 always afforded timely, uninterrupted 30-minute meal periods during shifts when they were
11 entitled to receive a meal period. Moreover, Defendants had a company-wide practice of
12 failing to schedule meal periods, which further caused Plaintiff and class members not to be
13 relieved of their duties for compliant meal periods.

14 81. As a result, Plaintiff and class members had to work through all or part of their
15 meal periods, had their meal periods interrupted, and/or had to wait extended periods of time
16 before taking meal periods. For example, Plaintiff took his meal periods late once per week,
17 after the end of his fifth hour of work, in order to fulfill customer orders. Plaintiff and class
18 members did not sign valid meal period waivers on days that they were entitled to meal
19 periods and were not relieved of all duties.

20 82. At all times herein mentioned, Defendants knew or should have known that, as
21 a result of these policies, Plaintiff and class members were prevented from being relieved of
22 all duties and required to perform some of their assigned duties during meal periods.
23 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
24 members all meal period premiums when meal periods were late, missed, shortened, or
25 interrupted.

26 83. Furthermore, Defendants engaged in a company-wide practice and/or policy of
27 not paying all meal period premiums owed when compliant meal periods were not provided.
28 Because of this practice and/or policy, Plaintiff and class members have not received all

1 premium pay for missed, late, and/or interrupted meal periods. As a result, Defendants failed
2 to provide Plaintiff and class members compliant meal periods in violation of California Labor
3 Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

4 84. Defendants' conduct violates the applicable IWC Wage Order, and California
5 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
6 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
7 rate of compensation for each work day that the meal period was not provided.

8 **FOURTH CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 10 **(Against all Defendants)**

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

13 86. At all relevant times herein set forth, the applicable IWC Wage Order and
14 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
15 members' employment by Defendants.

16 87. At all relevant times, the applicable IWC Wage Order provides that "[e]very
17 employer shall authorize and permit all employees to take rest periods, which insofar as
18 practicable shall be in the middle of each work period" and that the "rest period time shall be
19 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
20 hours or major fraction thereof" unless the total daily work time is less than three and one-half
21 (3 ½) hours.

22 88. At all relevant times, California Labor Code section 226.7 provides that no
23 employer shall require an employee to work during any rest period mandated by an applicable
24 order of the California IWC. To comply with its obligation to authorize and permit rest
25 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
26 employer must "relinquish any control over how employees spend their break time, and
27 relieve their employees of all duties—including the obligation that an employee remain on
28 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services*,

1 *Inc.*, 2 Cal. 5th 257, 273 (2016). Pursuant to the applicable IWC Wage Order and California
2 Labor Code section 226.7(c), Plaintiff and class members are entitled to recover from
3 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
4 required rest period was not authorized and permitted.

5 89. During the relevant time period, Defendants regularly failed to authorize and
6 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
7 period worked or major fraction thereof. As with meal periods, Defendants' company-wide
8 practices, including labor budgeting, understaffing, and assignment of heavy workloads,
9 prevented Plaintiff and class members from being relieved of all duty in order to take
10 compliant rest periods. Additionally, Defendants failed to schedule rest periods, which,
11 coupled with Defendants' failure to provide adequate rest period coverage, further led to
12 Plaintiff and class members not being authorized and permitted to take rest periods.

13 90. Furthermore, upon information and belief, during the relevant time period,
14 Defendants maintained and implemented a company-wide on-premises rest period policy,
15 which mandated that Plaintiff and/or class members remain on the work premises during their
16 rest periods. Because Plaintiff and/or class members were restricted from leaving the
17 premises during rest periods, they were denied the ability to use their rest periods freely for
18 their own purposes, such as running personal errands. Thus, Defendants effectively
19 maintained control over Plaintiff and/or class members during rest periods.

20 91. As a result of Defendants' practices and policies, Plaintiff and class members
21 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
22 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
23 throughout his employment, Plaintiff missed his rest periods at least two (2) times per week
24 because of the heavy workload and lack of coverage.

25 92. Defendants have also engaged in a systematic, company-wide practice and/or
26 policy of not paying rest period premiums owed when rest periods are not authorized and
27 permitted. As a result of this practice and/or policy, Plaintiff and class members have not
28 received premium pay for all missed rest periods.

93. Defendants' conduct violates the applicable IWC Wage Order and California Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled to recover from Defendants one (1) additional hour of pay at the employee's regular rate of compensation for each work day that a compliant rest period was not authorized and permitted.

FIFTH CAUSE OF ACTION

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

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

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

96. At all relevant times, Defendants have knowingly and intentionally provided Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements. For example, Defendants issued uniform wage statements to Plaintiff and Subclass members that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, and the corresponding number of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

97. Because Defendants did not accurately record the time Plaintiff and Subclass members spent working off-the-clock, Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and Subclass members in compliance with sections 226(a)(1) and 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours worked by Plaintiff and Subclass members in violation of section 226(a)(2),

1 and failed to list the applicable hourly rates of pay in effect during the pay period and
2 corresponding accurate number of work hours worked at each hourly rate in violation of
3 section 226(a)(9).

4 98. The wage statement deficiencies also include, without limitation, failing to list
5 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
6 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
7 for which employees were paid; failing to list the name of the employee and only the last four
8 digits of his or her social security number or an employee identification number other than a
9 social security number; failing to list the name and address of the legal entity that is the
10 employer; and/or failing to state all hours worked as a result of not recording or stating hours
11 worked off-the-clock.

12 99. California Labor Code section 1174(d) provides that “[e]very person employing
13 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
14 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
15 plants or establishments at which employees are employed, payroll records showing the hours
16 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
17 applicable piece rate paid to, employees employed at the respective plants or
18 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),
19 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
20 members showing the daily hours they worked and the wages paid thereto as a result of failing
21 to record the off-the-clock hours that they worked.

22 100. California Labor Code section 1198 provides that the maximum hours of work
23 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
24 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
25 employment of any employees for longer hours than those fixed by the order or under
26 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
27 Wage Order, employers are required to keep accurate time records showing when the
28 employee begins and ends each work period. During the relevant time period, Defendants

1 engaged in company-wide practices and/or policies of failing to record actual hours worked,
2 and thereby failed to keep accurate records of work period and meal period start and stop
3 times for Plaintiff and Subclass members, in violation of section 1198.

4 101. Plaintiff and Subclass members are entitled to recover from Defendants the
5 greater of their actual damages caused by Defendants' failure to comply with California Labor
6 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
7 employee.

8 **SIXTH CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon**

10 **Termination**

11 **(Against all Defendants)**

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

14 103. This cause of action is dependent upon, and wholly derivative of, the overtime
15 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
16 not timely paid to Plaintiff and those class members no longer employed by Defendants upon
17 their termination.

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

25 105. Defendants willfully failed to pay Plaintiff and class members who are no
26 longer employed by Defendants the earned and unpaid wages set forth above, including but
27 not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or
28 reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their

1 leaving Defendants' employ.

2 106. Defendants' failure to pay Plaintiff and class members who are no longer
3 employed by Defendants their wages earned and unpaid at the time of discharge, or within
4 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
5 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
6 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
7 thirty (30) day maximum pursuant to California Labor Code section 203.

8 **SEVENTH CAUSE OF ACTION**

9 **Violation of California Labor Code § 204—Failure to Timely Pay Wages During** 10 **Employment**

11 **(Against all Defendants)**

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

14 108. This cause of action is dependent upon, and wholly derivative of, the overtime
15 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
16 not timely paid to Plaintiff and class members during their employment.

17 109. At all times relevant herein set forth, Labor Code section 204 provides that all
18 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)
19 days, inclusive, of any calendar month, other than those wages due upon termination of an
20 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
21 the month during which the labor was performed. Labor Code section 204 further provides
22 that all wages earned by any person in any employment between the sixteenth (16th) and the
23 last day, inclusive, of any calendar month, other than those wages due upon termination of an
24 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
25 month.

26 110. At all times relevant herein, Labor Code section 204 provides that all wages
27 earned for labor in excess of the normal work period shall be paid no later than the payday for
28 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section

204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

111. During the relevant time period, Defendants willfully failed to pay Plaintiff and class members all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within the time periods specified by California Labor Code section 204.

112. Defendants' failure to pay Plaintiff and class members all wages due violates Labor Code section 204. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages pursuant to California Labor Code section 210.

EIGHTH CAUSE OF ACTION

Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A)—Failure to Provide Reporting Time Pay (Against all Defendants)

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

114. California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

115. The applicable IWC Wage Order, California Code of Regulations, Title 8, section 11050(5)(A), provides that “[e]ach 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.” The

1 “primary purpose of the reporting time regulation” is “to guarantee at least partial
2 compensation for employees who report to work expecting to work a specified number of
3 hours, and who are deprived of that amount because of inadequate scheduling or lack of
4 proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

5 116. During the relevant time period, Defendants violated California Labor Code
6 section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because
7 Defendants failed to pay Plaintiff and class members reporting time pay when they reported to
8 work for their usual or scheduled shift but were put to work for less than half of their usual or
9 scheduled day’s work.

10 117. Defendants had a company-wide practice of sending Plaintiff and class
11 members home early from their shifts, including before they had worked at least half of their
12 usual or scheduled shift, but would not pay Plaintiff and class members for half of their
13 scheduled shift. For example, Defendants’ managers sent Plaintiff home before half of his
14 scheduled shift was over, but on information and belief, Plaintiff was only paid for the time he
15 had worked. Although Plaintiff and class members reported to work based on the schedule
16 that was provided to them, Defendants would send them home before they worked at least half
17 of their usual or scheduled shifts. When this occurred, Defendants did not pay Plaintiff and
18 class members for at least half of their scheduled day’s work or the minimum reporting time
19 pay.

20 118. Accordingly, Plaintiff and class members were not properly compensated with
21 reporting time pay in violation of California Labor Code section 1198 and California Code of
22 Regulations, Title 8, section 11050(5)(A). Plaintiff and class members are therefore entitled
23 to recover from Defendants unpaid wages and interest.

24 **NINTH CAUSE OF ACTION**

25 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses** 26 **(Against all Defendants)**

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

1 120. At all times herein set forth, California Labor Code section 2802 provides that
2 an employer must reimburse employees for all necessary expenditures and losses incurred by
3 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
4 to prevent employers from passing off their cost of doing business and operating expenses on
5 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
6 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen the
7 employer requires the use of tools or equipment or they are necessary to the performance of a
8 job, such tools and equipment shall be provided and maintained by the employer, except that
9 an employee whose wages are at least two (2) times the minimum wage may provide and
10 maintain hand tools and equipment customarily required by the particular trade or craft.”
11 IWC Wage Order No. 5-2001 further provides that: “[w]hen uniforms are required by the
12 employer to be worn by the employee as a condition of employment, such uniforms shall be
13 provided and maintained by the employer.”

14 121. First, during the relevant time period, Defendants had a company-wide policy
15 of requiring Plaintiff and class members to utilize their own personal mobile devices,
16 including cellular phones, to carry out their job duties, but Defendants failed to reimburse
17 them for the costs of their work-related mobile device expenses. For example, Plaintiff and
18 class members were required to use their personal mobile devices to communicate with
19 management regarding work instructions, assignments, and corrections. Although Defendants
20 required Plaintiff and class members to utilize their personal mobile devices to carry out their
21 work-related responsibilities, Defendants failed to reimburse them for this cost.

22 122. Second, Defendants had a company-wide policy of requiring Plaintiff and class
23 members to utilize their own personal vehicles for work purposes, but failed to reimburse
24 them for all costs of travel, including mileage. For example, Plaintiff was required to drive to
25 different restaurants to pick up change for his location, but was not compensated for his travel
26 expenses or mileage. Although Defendants required Plaintiff and class members to utilize
27 their personal vehicles to carry out their work-related responsibilities, Defendants failed to
28 reimburse them for their mileage or travel expenses.

1 123. Third, during the relevant time period, Defendants, on a company-wide basis,
2 expected Plaintiff and class members to report to work in a clean and presentable gray
3 uniform shirt bearing the Jack in the Box company logo and name, but failed to provide
4 Plaintiff and class members with sufficient uniforms to wear for their shifts throughout the
5 week. For example, Defendants only provided Plaintiff with two (2) uniform shirts during his
6 employment. Because Defendants failed to provide Plaintiff with an adequate number of
7 uniform items in relation to his scheduled shifts and for the tasks his was required to perform,
8 Plaintiff was forced to wash his uniform items more frequently than he would otherwise do
9 laundry and separately from his regular clothing, thus incurring additional laundry expenses
10 for the upkeep of his uniforms. Thus, Defendants failed to maintain the uniforms they
11 required Plaintiff and class members to wear during their shifts and forced them to incur the
12 cost of maintaining employee uniforms.

13 124. Defendants could have provided Plaintiff and class members with the actual
14 equipment for use on the job, such as company mobile devices, company vehicles, and an
15 adequate number of uniforms or access to laundering services. Or, Defendants could have
16 reimbursed employees for the costs of their mobile device usage, travel expenses, mileage,
17 and laundering expenses or provided a uniform maintenance allowance. Instead, Defendants
18 passed these operating costs off onto Plaintiff and class members. At all relevant times,
19 Plaintiff did not earn at least two (2) times the minimum wage.

20 125. Defendants' company-wide policy and/or practice of passing on their operating
21 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
22 have intentionally and willfully failed to reimburse Plaintiff and class members for necessary
23 business-related expenses and costs.

24 126. Plaintiff and class members are entitled to recover from Defendants their
25 business-related expenses incurred during the course and scope of their employment, plus
26 interest.

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1 **TENTH CAUSE OF ACTION**

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

3 **(Against all Defendants)**

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

6 128. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
7 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
8 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
9 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c)
10 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
11 those Labor Code sections not found in section 2699.5, including sections 516, 1182.12, and
12 2810.5.

13 129. Defendants’ conduct, as alleged herein, violates numerous sections of the
14 California Labor Code, including, but not limited to, the following:

- 15 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
16 Wage Order for Defendants’ failure to compensate Plaintiff and other
17 aggrieved employees with all required overtime pay, as alleged herein
18 and as set forth below;
- 19 (b) Violation of Labor Code sections 226.7, 510, and 1198, and the
20 applicable IWC Wage Order for Defendants’ failure to include all forms
21 of remuneration in the “regular rate” of pay as required by law for
22 purposes of paying overtime wages and/or meal and rest period
23 premiums to other aggrieved employees, as set forth below;
- 24 (c) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
25 1198, and the applicable IWC Wage Order for Defendants’ failure to
26 compensate Plaintiff and other aggrieved employees with at least
27 minimum wages for all hours worked, as alleged herein and as set forth
28 below;

- 1 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
2 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
3 and other aggrieved employees with meal periods, as alleged herein and
4 as set forth below;
- 5 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
6 applicable IWC Wage Order for Defendants' failure to authorize and
7 permit Plaintiff and other aggrieved employees to take rest periods, as
8 alleged herein and as set forth below;
- 9 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
10 IWC Wage Order for failure to provide accurate and complete wage
11 statements to Plaintiff and other aggrieved employees, as alleged herein
12 and as set forth below;
- 13 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
14 IWC Wage Order for failure to maintain payroll records, as alleged
15 herein and as set forth below;
- 16 (h) Violation of Labor Code sections 201 and 202 for failure to pay all
17 earned wages upon termination, as alleged herein;
- 18 (i) Violation of Labor Code section 204 for failure to pay all earned wages
19 during employment, as alleged herein;
- 20 (j) Violation of Labor Code section 1198 and the applicable IWC Wage
21 Order for failing to pay reporting time pay to Plaintiff and other
22 aggrieved employees, as alleged herein;
- 23 (k) Violation of Labor Code section 1198 and the applicable IWC Wage
24 Order for failure to provide suitable seating, as set forth below;
- 25 (l) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
26 and other aggrieved employees for all business expenses necessarily
27 incurred, as alleged herein; and
- 28 (m) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to

1 provide written notice of information material to Plaintiff's and other
2 aggrieved employees' employment with Defendants, as set forth below.

3 130. As stated, Defendants had a company-wide practice and/or policy of requiring
4 Plaintiff and/or other aggrieved employees to continue to perform work-related tasks while
5 off-the-clock. On information and belief, Defendants implemented, on a company-wide basis,
6 an employer-imposed requirement that other aggrieved employees undergo mandatory
7 COVID-19 temperature checks and/or health screenings before clocking in for their scheduled
8 shifts. Prior to each shift, other aggrieved employees were required to spend several minutes
9 per instance waiting and then undergoing the temperature check and health screening, before
10 being permitted to clock in for their shifts. Even though Defendants required these health
11 screenings, Defendants did not provide other aggrieved employees a mechanism to record this
12 time worked so they could be compensated for the time spent undergoing mandatory
13 temperature checks and/or health screenings.

14 131. As set forth above, on information and belief, due to Defendants' uniform
15 practices of utilizing labor budgets, understaffing, assignment of heavy workloads, failure to
16 schedule meal periods, and subsequent lack of meal period coverage, other aggrieved
17 employees were impeded from taking all uninterrupted meal periods to which they were
18 entitled and were required to work off-the-clock. Moreover, Defendants had a requirement
19 that a managerial employee be present on the restaurant floor at all times and prohibited
20 managers from leaving the premises unless another manager was also on duty, resulting in a
21 lack of meal period coverage for managerial employees. At the same time, the labor budgets
22 Defendants implemented did not always allow for more than one manager to be on the
23 schedule at all times. As a result, other managerial employees were sometimes the only
24 managers on duty, and were required to supervise the restaurant and respond to customer
25 complaints. Because managerial employees were effectively prohibited from leaving
26 Defendants' premises for meal periods without coverage, and because there were too few
27 employees and other managers on duty to handle the workload and attend to customers, other
28 aggrieved employees were denied uninterrupted 30-minute meal periods, and were required to

1 work through and/or to return early from meal periods. Moreover, because other aggrieved
2 employees were restricted from leaving the premises during meal periods, other aggrieved
3 employees were denied the ability to use meal periods freely for their own purposes, such as
4 running personal errands. Thus, Defendants effectively maintained control over other
5 aggrieved employees during meal periods.

6 132. Also, Defendants' company-wide timekeeping system further prevented other
7 aggrieved employees from recording all hours worked when their meal periods were shortened
8 or interrupted, because the system prevented employees from clocking back in from a meal
9 period until 30 minutes elapsed. Thus, Defendants' timekeeping system prevented other
10 aggrieved employees from recording all hours worked when meal periods were missed, short,
11 and/or interrupted.

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

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

28 135. Defendants' failure to compensate Plaintiff and/or other aggrieved employees

1 with all required overtime pay and failure to properly calculate the overtime rates paid to other
2 aggrieved employees, is in violation of California Labor Code sections 510 and 1198, and the
3 applicable IWC Wage Order. Additionally, Defendants' failure to compensate Plaintiff and/or
4 other aggrieved employees with at least minimum wages for all hours worked is in violation
5 of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198, and the applicable
6 IWC Wage Order.

7 136. During the relevant time period, as stated, Defendants had, and continue to
8 have, a company-wide policy and/or practice of understaffing locations due to labor budget
9 practices, which, combined with the assignment of heavy workloads, failure to schedule meal
10 periods, and requirement that a managerial employee to remain on premises at all times, has
11 resulted in a lack of meal period coverage and prevented other aggrieved employees from
12 taking all timely, uninterrupted meal periods to which they were entitled. As a result, other
13 aggrieved employees had to work through all or part of their meal periods and/or had their
14 meal periods interrupted.

15 137. As also stated, Defendants' company-wide timekeeping system prevented other
16 aggrieved employees from recording all hours worked when their meal periods were shortened
17 or interrupted, because the system locked out other aggrieved employees once they clocked
18 out for a meal period and would not permit them to clock back in from a meal period before
19 30 minutes elapsed. Moreover, Defendants did not provide other aggrieved employees with
20 second 30-minute meal periods on days that they worked in excess of ten (10) hours in one
21 day.

22 138. Furthermore, as stated, Defendants engaged in a company-wide practice and/or
23 policy of not paying all meal period premiums owed when compliant meal periods are not
24 provided. Because of this practice and/or policy, Plaintiff and/or other aggrieved employees
25 have not received premium pay for missed, late, and interrupted meal periods. Alternatively,
26 to the extent that Defendants did pay other aggrieved employees for missed, late, and
27 interrupted meal periods, Defendants did not pay other aggrieved employees at the correct rate
28 of pay for premiums because Defendants systematically failed to include all forms of

1 compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of
2 remuneration, in the regular rate of pay.

3 139. Defendants' failure to provide meal periods to Plaintiff and/or other aggrieved
4 employees and failure to properly calculate the rates of pay for meal period premiums based
5 on all remuneration paid is in violation of California Labor Code sections 226.7, 512(a), 516,
6 and 1198, and the applicable IWC Wage Order.

7 140. As stated, as with meal periods, Defendants also have engaged in a company-
8 wide practice and/or policy of not paying all rest period premiums owed when compliant rest
9 periods are not authorized or permitted. Because of this practice and/or policy, Plaintiff
10 and/or other aggrieved employees have not received premium pay for all missed rest periods.
11 Alternatively, to the extent that Defendants did pay other aggrieved employees one (1)
12 additional hour of premium pay for missed rest periods, Defendants did not pay other
13 aggrieved employees at the correct rate of pay for premiums because Defendants failed to
14 include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or
15 other forms of remuneration, in the regular rate of pay.

16 141. Defendants' failure to properly calculate the rates of pay for rest period
17 premiums based on all remuneration paid is in violation of California Labor Code sections
18 226.7, 516, and 1198, and the applicable IWC Wage Order.

19 142. During the relevant time period, as stated, Defendants have knowingly and
20 intentionally provided Plaintiff and other aggrieved employees with uniform, incomplete, and
21 inaccurate wage statements. Specifically, Defendants violated sections 226(a)(1), 226(a)(2),
22 226(a)(5), and 226(a)(9). Because Defendants deducted time from other aggrieved
23 employees' records for meal periods that were interrupted and/or missed (and therefore time
24 for which they should have been paid), Defendants did not list the correct amount of gross
25 wages and net wages earned by other aggrieved employees in compliance with section
26 226(a)(1) and section 226(a)(5), respectively. For the same reason, Defendants failed to
27 accurately list the total number of hours worked by other aggrieved employees, in violation of
28 section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay

1 period and the corresponding accurate number of hours worked at each hourly rate, in
2 violation of section 226(a)(9).

3 143. Further, because Defendants did not calculate other aggrieved employees'
4 regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest
5 period premiums, Defendants did not list the correct amount of gross wages earned by other
6 aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount
7 of net wages earned by other aggrieved employees in violation of section 226(a)(5).
8 Defendants also failed to correctly list all applicable hourly rates in effect during the pay
9 period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums,
10 in violation of section 226(a)(9).

11 144. Further, pursuant to the applicable IWC Wage Order, employers are required to
12 keep accurate time records showing when the employee begins and ends each work period and
13 meal period. In light of Defendants' failure to provide other aggrieved employees with second
14 30-minute meal periods to which they were entitled, Defendants kept no records of meal start
15 and end times for second meal periods. Defendants' conduct violates California Labor Code
16 226(a), 1174(d), and 1198.

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

23 146. California Code of Regulations, Title 8, section 11050(14)(B) provides that
24 "[w]hen employees are not engaged in the active duties of their employment and the nature of
25 the work requires standing, an adequate number of suitable seats shall be placed in reasonable
26 proximity to the work area and employees shall be permitted to use such seats when it does
27 not interfere with the performance of their duties."

28 147. During the relevant time period, Defendants violated California Labor Code

1 section 1198 and California Code of Regulations, Title 8, section 11050(14)(B), because
2 Plaintiff and other aggrieved employees were not allowed to sit, even during lulls in their
3 work duties, nor were they provided with suitable seats in reasonable proximity to their work
4 areas.

5 148. Defendants' California restaurant locations are generally similar in their layout
6 and design and there was, and continues to be, space near their work areas (with reasonable or
7 no modification to these work areas) to allow for the presence and use of a seat or stool by
8 Plaintiff and other aggrieved employees during lulls in operation. Defendants could have
9 provided Plaintiff and other aggrieved employees with a seat or stool in their work areas, but
10 instead denied, and continue to deny, employees seating, forcing them to stand throughout the
11 day.

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

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

27 151. At all relevant times herein, California's Wage Theft Prevention Act was
28 enacted to ensure that employers provide employees with basic information material to their

1 employment relationship at the time of hiring, and to ensure that employees are given written
2 and timely notice of any changes to basic information material to their employment. Codified
3 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
4 time of hiring, an employer must provide written notice to employees containing basic and
5 material payroll information, including, among other things, the rate(s) of pay and basis
6 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
7 including any rates for overtime, the regular payday designated by the employer, and any
8 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
9 Code § 2810.5(a)(1)(A)-(C).

10 152. At all relevant times, on information and belief, Defendants failed, on a
11 company-wide basis, to provide written notice to Plaintiff and other aggrieved employees that
12 lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
13 Defendants' failure to provide Plaintiff and other aggrieved employees with written notice of
14 basic information regarding their employment with Defendants is in violation of Labor Code
15 section 2810.5.

16 153. Therefore, Plaintiff and/or other aggrieved employees are entitled to recover
17 civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

18 **ELEVENTH CAUSE OF ACTION**

19 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

20 **Unlawful Business Practices**

21 **(Against all Defendants)**

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

24 155. Defendants are "persons" as defined by California Business & Professions
25 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
26 and/or associations.

27 156. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
28 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has

1 suffered injury in fact and has lost money as a result of Defendants' unlawful business
2 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
3 meaning of Code of Civil Procedure section 1021.5.

4 157. Defendants' activities, as alleged herein, are violations of California law, and
5 constitute unlawful business acts and practices in violation of California Business &
6 Professions Code sections 17200, *et seq.*

7 158. A violation of California Business & Professions Code sections 17200, *et seq.*
8 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
9 policies and practices have violated state law in at least the following respects:

- 10 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
11 class members, to work overtime without paying them proper
12 compensation in violation of California Labor Code sections 510 and
13 1198, and the applicable IWC Wage Order, as alleged herein;
- 14 (b) Failing to pay at least minimum wage to Plaintiff and class members in
15 violation of California Labor Code sections 1182.12, 1194, 1197,
16 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
17 herein;
- 18 (c) Failing to provide uninterrupted meal periods to Plaintiff and class
19 members in violation of California Labor Code sections 226.7, 512(a),
20 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- 21 (d) Failing to authorize and permit Plaintiff and class members to take
22 uninterrupted rest periods in violation of California Labor Code sections
23 226.7, 516, and 1198, and the applicable IWC Wage Order, as alleged
24 herein;
- 25 (e) Failing to provide Plaintiff and class members with accurate wage
26 statements and failing to maintain accurate payroll records in violation
27 of California Labor Code sections 226(a), 1174(d), and 1198, and the
28 applicable IWC Wage Order, as alleged herein;

- 1 (f) Failing timely to pay all earned wages to Plaintiff and class members in
2 violation of California Labor Code section 204, as alleged herein;
- 3 (g) Failing to pay reporting time pay in violation of California Labor Code
4 section 1198 and the applicable IWC Wage Order, as alleged herein;
- 5 (h) Failing to reimburse Plaintiff and class members for all business
6 expenses necessarily incurred in violation of California Labor Code
7 section 2802, as alleged herein; and
- 8 (i) Failing to provide written notice of information material to Plaintiff's
9 and class members' employment with Defendants in violation of
10 California Labor Code section 2810.5(a)(1)(A)-(C), as set forth below.

11 159. At all relevant times herein, California's Wage Theft Prevention Act was
12 enacted to ensure that employers provide employees with basic information material to their
13 employment relationship at the time of hiring, and to ensure that employees are given written
14 and timely notice of any changes to basic information material to their employment. Codified
15 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
16 time of hiring, an employer must provide written notice to employees containing basic and
17 material payroll information, including, among other things, the rate(s) of pay and basis
18 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
19 including any rates for overtime, the regular payday designated by the employer, and any
20 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
21 Code § 2810.5(a)(1)(A)-(C).

22 160. At all relevant times, on information and belief, Defendants failed, on a
23 company-wide basis, to provide written notice to Plaintiff and class members that lists the
24 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure
25 to provide Plaintiff and class members with written notice of basic information regarding their
26 employment with Defendants is in violation of California Labor Code section 2810.5.

27 161. As a result of the violations of California law herein described, Defendants
28 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members

1 have suffered pecuniary loss by Defendants’ unlawful business acts and practices alleged
2 herein.

3 162. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
4 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
5 Defendants during a period that commences four years prior to the filing of this complaint; a
6 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
7 class members; and an award of attorneys’ fees pursuant to California Code of Civil
8 Procedure section 1021.5 and other applicable laws; and an award of costs.

9 **TWELFTH CAUSE OF ACTION**

10 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

11 **Unfair Business Practices**

12 **(Against all Defendants)**

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

15 164. Defendants are “persons” as defined by California Business & Professions
16 Code section 17201, as they are corporations, firms, partnerships, joint stock companies,
17 and/or associations.

18 165. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
19 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
20 injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiff
21 seeks to enforce important rights affecting the public interest within the meaning of Code of
22 Civil Procedure section 1021.5.

23 166. Defendants’ activities, namely Defendants’ company-wide practice and/or
24 policy of not paying Plaintiff and class members all meal and rest period premiums due to
25 them under Labor Code section 226.7, deprived Plaintiff and class members of the
26 compensation guarantee and enhanced enforcement implemented by section 226.7. The
27 statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to
28 compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v.*

1 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
2 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
3 and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an
4 unfair business practice in violation of California Business & Professions Code sections
5 17200, *et seq.* (*Id.*)

6 167. A violation of California Business & Professions Code sections 17200, *et seq.*
7 may be predicated on any unfair business practice. In the instant case, Defendants' policies
8 and practices have violated the spirit of California's meal and rest period laws and constitute
9 acts against the public policy behind these laws.

10 168. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
11 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
12 benefits implemented by section 226.7 withheld and retained by Defendants during a period
13 that commences four years prior to the filing of this complaint; a permanent injunction
14 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
15 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
16 Procedure section 1021.5 and other applicable laws; and an award of costs.

17 **REQUEST FOR JURY TRIAL**

18 Plaintiff requests a trial by jury.

19 **PRAYER FOR RELIEF**

20 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
21 against Defendants, jointly and severally, as follows:

22 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
23 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
24 reserves the right to amend his prayer for relief to seek a different amount.

25 **Class Certification**

- 26 2. That this case be certified as a class action;
27 3. That Plaintiff be appointed as the representative of the Class and Subclass;
28 4. That counsel for Plaintiff be appointed as class counsel.

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1 willfully failing to provide all meal periods to Plaintiff and class members;

2 17. That the Court make an award to the Plaintiff and class members of one (1)
3 hour of pay at each employee's regular rate of pay for each workday that a meal period was
4 not provided;

5 18. For all actual, consequential, and incidental losses and damages, according to
6 proof;

7 19. For premiums pursuant to California Labor Code section 226.7(c);

8 20. For pre-judgment interest on any unpaid meal period premiums from the date
9 such amounts were due, or as otherwise provided by law;

10 21. For attorneys' fees pursuant to California Code of Civil Procedure section
11 1021.5, or as otherwise provided by law; and

12 22. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Fourth Cause of Action**

15 23. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order by willfully
17 failing to authorize and permit Plaintiff and class members to take all rest periods;

18 24. That the Court make an award to the Plaintiff and class members of one (1) hour
19 of pay at each employee's regular rate of pay for each workday that a rest period was not
20 authorized and permitted;

21 25. For all actual, consequential, and incidental losses and damages, according to
22 proof;

23 26. For premiums pursuant to California Labor Code section 226.7(c);

24 27. For pre-judgment interest on any unpaid rest period premiums from the date
25 such amounts were due, or as otherwise provided by law;

26 28. For attorneys' fees pursuant to California Code of Civil Procedure section
27 1021.5, or as otherwise provided by law; and

28 29. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated the recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For injunctive relief pursuant to California Labor Code section 226(h);

33. For statutory penalties pursuant to California Labor Code section 226(e);

34. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

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

As to the Sixth Cause of Action

36. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay owed at the time of termination of the employment of Plaintiff and other terminated class members;

37. For all actual, consequential and incidental losses and damages, according to proof;

38. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

39. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

40. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

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

appropriate.

As to the Seventh Cause of Action

42. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to timely pay Plaintiff and class members overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay during their employment;

43. For all actual, consequential and incidental losses and damages, according to proof;

44. For statutory penalties according to proof pursuant to California Labor Code section 210;

45. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

46. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

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

As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A) by failing to provide Plaintiff and class members with reporting time pay;

49. For all actual, consequential and incidental losses and damages, according to proof;

50. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law; and

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

As to the Ninth Cause of Action

52. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
2 related expenses and costs incurred by Plaintiff and class members;

3 53. For unpaid business-related expenses and such general and special damages as
4 may be appropriate;

5 54. For pre-judgment interest on any unpaid business-related expenses from the
6 date such amounts were due, or as otherwise provided by law;

7 55. For all actual, consequential, and incidental losses and damages, according to
8 proof;

9 56. For attorneys' fees and costs pursuant to California Labor Code section
10 2802(c), or as otherwise provided by law; and

11 57. For such other and further relief as the Court may deem equitable and
12 appropriate.

13 **As to the Tenth Cause of Action**

14 58. That the Court declare, adjudge and decree that Defendants violated the
15 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
16 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198 (by failing
17 to include all forms of remuneration in the "regular rate" of pay for purposes of paying
18 overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, 1197.1, and
19 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
20 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
21 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
22 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
23 earned wages upon termination); 204 (by failing to timely pay all earned wages during
24 employment); 1198 and the applicable IWC Wage Order (by failing to provide reporting time
25 pay); 1198 and the applicable IWC Wage Order (by failing to provide suitable seating); 2802
26 (by failing to reimburse business expenses); and 2810.5 (by failing to provide notice of
27 material terms of employment);

28 59. For civil penalties pursuant to the California Labor Code, including sections

210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

60. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

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

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

As to the Eleventh Cause of Action

63. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiff and class members all overtime wages due to them, failing to provide Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and class members all meal periods, failing to authorize and permit Plaintiff and class members to take all rest periods, failing to provide Plaintiff and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiff and class members, failing to timely pay Plaintiff and class members all earned wages during employment, failing to pay Plaintiff and class members reporting time pay, failing to reimburse Plaintiff and class members for business-related expenses, and failing to provide written notice of material terms of employment, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

64. For restitution of unpaid wages to Plaintiff and all class members and prejudgment interest from the day such amounts were due and payable;

65. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

1 66. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Code of Civil Procedure section 1021.5; and

3 67. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 **As to the Twelfth Cause of Action**

6 68. That the Court declare, adjudge and decree that Defendants' conduct of denying
7 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
8 an unfair business practice in violation of California Business and Professions Code sections
9 17200, *et seq.*;

10 69. For restitution of the statutory benefits under section 226.7 unfairly withheld
11 from Plaintiff and class members and prejudgment interest from the day such amounts were
12 due and payable;

13 70. For the appointment of a receiver to receive, manage and distribute any and all
14 funds disgorged from Defendants and determined to have been wrongfully acquired by
15 Defendants as a result of violations of California Business & Professions Code sections
16 17200, *et seq.*;

17 71. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
18 California Code of Civil Procedure section 1021.5;

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

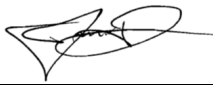
20 73. For such other and further relief as the Court may deem equitable and
21 appropriate.

22
23 Dated: March 2, 2023

Respectfully submitted,

Capstone Law APC

24
25 By: _____


Robert Drexler
Molly DeSario
Jonathan Lee

26
27
28 Attorneys for Plaintiff Angel Arias-Brannon

EXHIBIT “1”



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Los Angeles, California 90067
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JEZZETTE RON
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December 14, 2022

VIA ONLINE SUBMISSION

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

Subject: *Angel Arias-Brannon v. JIB Holdings I, LLC, et al.*

Dear PAGA Administrator:

This office represents Angel Arias-Brannon in connection with his claims under the California Labor Code. Mr. Arias-Brannon was an employee of JIB HOLDINGS I, LLC; ENVISION FOODS, LLC; DESERT JACK, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; ENV MANAGEMENT, LLC; and/or TNH PARTNERS, LLC. For the purpose of this letter, Mr. Arias-Brannon collectively refers to these entities as "JIB."

The employers may be contacted directly at the addresses below:

JIB HOLDINGS I, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

ENVISION FOODS, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

DESERT JACK, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

ALLIED RESTAURANT MANAGEMENT, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

ENV MANAGEMENT, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

TNH PARTNERS, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

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

JIB employed Mr. Arias-Brannon as an hourly paid, non-exempt employee from approximately July 2021 to June 2022. Mr. Arias-Brannon worked for JIB as a Cashier and Shift Lead at its Jack in the Box location in Baker, California. During his employment, Mr. Arias-Brannon typically worked eight (8) or more hours per day and five (5) or more days per week. At the time Mr. Arias-Brannon's employment with JIB ended, he earned \$17.00 per hour. His job duties included, without limitation, operating the cash register, cooking, and preparing food, providing customer service, and cleaning his station.

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

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

JIB HOLDINGS I, LLC; ENVISION FOODS, LLC; DESERT JACK, LLC; ALLIED RESTAURANT MANAGEMENT, LLC; ENV MANAGEMENT, LLC; and TNH PARTNERS, LLC are California limited liability companies. Upon information and belief, JIB operates approximately 120 Jack in the Box franchise restaurant locations in three states, including at least 50 restaurant locations in California. Upon information and belief, JIB maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Victorville, California, for all non-exempt, hourly paid employees working for JIB in California, including Mr. Arias-Brannon and other aggrieved employees. At all relevant times, JIB issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Arias-Brannon and other aggrieved employees, regardless of their location or position.

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

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

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular

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

rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

JIB willfully failed to pay all overtime wages owed to Mr. Arias-Brannon and other aggrieved employees. During the relevant time period, Mr. Arias-Brannon and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant time period, JIB had, and continues to have, a company-wide policy and/or practice of requiring Mr. Arias-Brannon and other aggrieved employees to perform tasks off-the-clock before and after their scheduled shifts, and on their days off. For example, because JIB's timekeeping system was integrated with the company's point-of-sale ("POS") system, Mr. Arias-Brannon and other aggrieved employees would often have to wait to clock in for the start of their shifts, because other employees were using the POS system to handle customer sales transactions. For instance, Mr. Arias-Brannon was required to wait under JIB's control until a POS machine was available for clocking-in, time for which he was not paid. Additionally, JIB's timekeeping system prevented employees from clocking in before their scheduled shifts prohibiting them from recording time worked prior to the start of their scheduled shifts. Consequently, on information and belief, other aggrieved employees performed work prior to the start of their shifts, but were unable to record this time.

As another example, after clocking out, Mr. Arias-Brannon was regularly required to spend two (2) minutes performing closing duties—turning off lights, activating the alarm, and locking the store, tasks he was required to complete before leaving at the end of his shift. Moreover, approximately twice per month, JIB's supervisors contacted Mr. Arias-Brannon on his personal cellular phone about work-related matters when he was not scheduled to work, but did not compensate him for this time. Thus, JIB failed to track the time Mr. Arias-Brannon and other aggrieved employees spent working before and after their scheduled shifts, and Mr. Arias-Brannon and other aggrieved employees received no compensation for this time.

Second, on information and belief, JIB implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to each shift, other aggrieved employees were required to spend several minutes per instance waiting and then undergoing the temperature check and health screening, before being permitted to clock in for their shifts. Even though JIB required these health screenings, JIB did not provide other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Third, on information and belief, JIB had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours or labor budget set by corporate for each location. On information and belief, JIB's uniform use of labor budgets, combined with heavy workloads, resulted in chronic understaffing and a failure to provide Mr. Arias-Brannon and other aggrieved employees with adequate meal period coverage, because there were too

few employees on duty to handle the workload and attend to customers. Because JIB did not employ or staff a sufficient number of employees to meet customer demand, there was no one available to relieve employees needing meal period coverage, and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Moreover, JIB had a company-wide practice of failing to schedule meal periods, which further caused Mr. Arias-Brannon and/or other aggrieved employees not to be relieved of their duties for compliant meal periods. Also, JIB's company-wide timekeeping system further prevented other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system prevented employees from clocking back in from a meal period until 30 minutes elapsed. Thus, JIB's timekeeping system prevented other aggrieved employees from recording all hours worked when meal periods were missed, short, and/or interrupted.

Fourth, JIB had a requirement that a managerial employee be present on the restaurant floor at all times and prohibited managers from leaving the premises unless another manager was also on duty, resulting in a lack of meal period coverage for managerial employees. At the same time, the labor budgets JIB implemented did not always allow for more than one manager to be on the schedule at all times. As a result, other managerial employees were sometimes the only managers on duty, and were required to supervise the restaurant and respond to customer complaints. Because managerial employees were effectively prohibited from leaving JIB's premises for meal periods without coverage, and because there were too few employees and other managers on duty to handle the workload and attend to customers, other aggrieved employees were denied uninterrupted 30-minute meal periods, and were required to work through and/or to return early from meal periods. Moreover, because other aggrieved employees were restricted from leaving the premises during meal periods, other aggrieved employees were denied the ability to use meal periods freely for their own purposes, such as running personal errands. Thus, JIB effectively maintained control over other aggrieved employees during meal periods.

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

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

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

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

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

As stated above, JIB had company-wide policies and/or practices requiring Mr. Arias-Brannon and other aggrieved employees to perform various work-related tasks while off-the-clock, including, waiting to clock in for the start of their shifts because other employees were using the POS system, submitting to mandatory pre-shift COVID-19 temperature checks and health screenings, completing closing duties after clocking out, and/or responding to communications on their personal mobile devices. Thus, JIB failed to track this time Mr. Arias-Brannon and other aggrieved employees spent working off- the-clock, and Mr. Arias-Brannon and other aggrieved employees received no compensation for this time.

Furthermore, as set forth above, on information and belief, due to JIB’s uniform practices of utilizing labor budgets, understaffing, assignment of heavy workloads, failure to schedule meal periods, subsequent lack of meal period coverage, and requirement that a managerial employee to remain on premises at all times, Mr. Arias-Brannon and/or other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. And, as described above, JIB’s timekeeping system did not permit other aggrieved employees to clock back in early when their meal periods were interrupted or cut short. Thus, JIB systematically failed to pay other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

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

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

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

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without

providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

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

As stated above, JIB had, and continues to have, company-wide policies and/or practices of understaffing locations pursuant to labor budget practices, which, combined with the assignment of heavy workloads and a failure to schedule meal periods, has resulted in a lack of meal period coverage. Thus, Mr. Arias-Brannon and other aggrieved employees missed their meal periods entirely, had their meal periods cut short to return to work, or waited extended periods of time before taking meal periods. For example, Mr. Arias Brannon took his meal periods late once per week, after the end of his fifth hour of work, in order to fulfill customer orders.

Furthermore, as set forth above, in conjunction with understaffing its restaurant locations, JIB had a requirement that a managerial employee be present on the restaurant premises at all times, but JIB's labor budgets did not always allow for more than one manager to be on the schedule. As a result, other managerial employees were sometimes the only managers on duty, and would have their meal periods interrupted or would work through them in order to assist their coworkers and customers. Moreover, because other aggrieved employees were restricted from leaving the premises during meal periods, other aggrieved employees were denied the ability to use meal periods freely for their own purposes, such as running personal errands. Thus, JIB effectively maintained control over other aggrieved employees during meal periods.

As also stated, JIB's company-wide timekeeping system prevented other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out other aggrieved employees once they clocked out for a meal period and would not permit them to clock back in from a meal period before 30 minutes elapsed. Moreover, JIB did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Mr. Arias-Brannon and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

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

Furthermore, JIB engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Arias-Brannon and other aggrieved employees have not received premium pay for

missed, interrupted, and/or late meal periods. Alternatively, to the extent that JIB did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, JIB did not pay other aggrieved employees at the correct rate of pay for premiums because JIB systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

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

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

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

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

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

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

As a result, Mr. Arias-Brannon and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to

take all ten (10) minute rest periods to which they were entitled. For example, Mr. Arias-Brannon missed his rest periods at least two (2) times per week because of the heavy workload and lack of coverage.

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

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

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

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

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

Because JIB did not record the time Mr. Arias-Brannon and other aggrieved employees spent working off-the-clock, JIB did not list the correct amount of gross wages and net wages earned by Mr. Arias-Brannon and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, JIB failed to accurately list the total number of hours worked by Mr. Arias-Brannon and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

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

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

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

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

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

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

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

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

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

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

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

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

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

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

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code

section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11050(5)(A) provides that “[e]ach 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.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, JIB violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because JIB failed to pay Mr. Arias-Brannon and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the usual or scheduled day’s work.

JIB had a company-wide practice of sending Mr. Arias-Brannon and other aggrieved employees home early from their shifts, including before they had worked at least half of their usual or scheduled shift, but would not pay Mr. Arias-Brannon and other aggrieved employees for half of their usual or scheduled shift. For example, JIB’s managers sent Mr. Arias-Brannon home before half of his scheduled shift was over, but on information and belief, Mr. Arias-Brannon was only paid for the time he had worked. Although Mr. Arias-Brannon and other aggrieved employees would report to work based on the schedule JIB provided to them, JIB would send them home before they had worked at least half of their usual or scheduled shifts without giving them reporting time pay.

Accordingly, Mr. Arias-Brannon and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A).

Mr. Arias-Brannon and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

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

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

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

JIB’s California restaurant locations are generally similar in their layout and design and there was, and continues to be, space near their work areas (with reasonable or no modification to these work areas) to allow for the presence and use of a seat or stool by other aggrieved employees during lulls in operation. JIB could provide other aggrieved employees with a seat or stool in its work areas, but instead denies employees seating and forces other aggrieved employees to stand throughout the day.

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

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

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

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen 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 the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.” IWC Wage Order No. 5-2001 further provides that: “[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

First, during the relevant time period, JIB had a company-wide policy of requiring Mr. Arias-Brannon and other aggrieved employees to utilize their own personal mobile devices, including cellular phones, to carry out their job duties, but JIB failed to reimburse them for the costs of their work-related mobile device expenses. For example, Mr. Arias-Brannon and other aggrieved employees were required to use their personal mobile devices to communicate with management regarding work instructions, assignments, and corrections. Although JIB required Mr. Arias-Brannon and other aggrieved employees to utilize their personal mobile devices to carry out their work-related responsibilities, JIB failed to reimburse them for this cost.

Second, JIB had a company-wide policy of requiring Mr. Arias-Brannon and other aggrieved employees to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. For example, Mr. Arias-Brannon was required to drive to different restaurants to pick up change for his location, but was not compensated for his travel expenses or mileage. Although JIB required Mr. Arias-Brannon and other aggrieved employees to utilize their personal vehicles to carry out their work-related responsibilities, JIB failed to reimburse them for their mileage or travel expenses.

Third, during the relevant time period, JIB, on a company-wide basis, expected Mr. Arias-Brannon and other aggrieved employees to report to work in a clean and presentable gray uniform shirt bearing the Jack in the Box company logo and name, but failed to provide Mr. Arias-Brannon and other aggrieved employees with sufficient uniforms to wear for their shifts throughout the week. For example, JIB only provided Mr. Arias-Brannon with two (2) uniform shirts during his employment. Because JIB failed to provide Mr. Arias-Brannon with an adequate number of uniform items in relation to his scheduled shifts and for the tasks he was required to perform, Mr. Arias-Brannon was forced to wash his uniform items more frequently than he would otherwise do laundry and separately from his regular clothing, thus incurring additional laundry expenses for the upkeep of his uniforms. Thus, JIB failed to maintain the uniforms it required Mr. Arias-Brannon and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

JIB could have provided Mr. Arias-Brannon and other aggrieved employees with the actual equipment for use on the job, such as company mobile devices, company vehicles, and an adequate number of uniforms or access to laundering services. Or, JIB could have reimbursed employees for the costs of their mobile device usage, travel expenses, mileage, and laundering expenses or provided a uniform maintenance allowance. Instead, JIB passed these operating costs off onto Mr. Arias-Brannon and other aggrieved employees. At all relevant times, Mr. Arias-Brannon did not earn at least two (2) times the minimum wage.

Thus, JIB had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Arias-Brannon and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to

their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

JIB failed to provide Mr. Arias-Brannon and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). JIB's failure to provide Mr. Arias-Brannon and other aggrieved employees with written notice of basic information regarding their employment with JIB is in violation of Labor Code section 2810.5.

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

California Labor Code § 558(a)

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

Accordingly, Mr. Arias-Brannon seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Arias-Brannon, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for himself, all other aggrieved employees, and the State of California against JIB for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802 and 2810.5.

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

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

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

Best Regards

A handwritten signature in black ink, appearing to read "J. Ron". The signature is stylized with a large, looped "J" and a cursive "Ron".

Jezzette Ron

Copy: JIB HOLDINGS I, LLC (via U.S. Certified Mail); ENVISION FOODS, LLC (via U.S. Certified Mail); DESERT JACK, LLC (via U.S. Certified Mail); ALLIED RESTAURANT MANAGEMENT, LLC (via U.S. Certified Mail); ENV MANAGEMENT, LLC (via U.S. Certified Mail); TNH PARTNERS, LLC (via U.S. Certified Mail); Alicia A. Belock & Michael J. O'Connor, AALRR PLC, 4275 Executive Square Suite 700, La Jolla, CA 92037 (via U.S. Certified mail)

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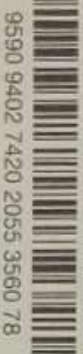
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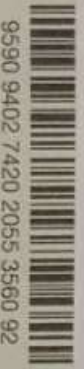
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1875 Century Park, East, 1000
Los Angeles, CA. 90067

7022 2410 0000 2406 4352



CERTIFIED MAIL

TNH PARTNERS, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

TNH PARTNERS, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☒ Agent ☐ Addressee
- B. Received by (Printed Name) ☒
- C. Date of Delivery

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



9590 9402 7420 2055 3562 14

2. Article Number (Transfer from service label)

7022 2410 0000 2406 4352

PS Form 3811, July 2020 PSN 7530-02-000-8053

Domestic Return Receipt

7022 2410 0000 2406 4352

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

TNH PARTNERS, LLC
15401 ANACAPA ROAD
VICTORVILLE CA 92392

For delivery information, visit our website at www.usps.com.

Accepted for mailing at this post office on Aug 11, 2023 at 3:05 PM.

Postmark

6964 9042 0000 0742 2202

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

For delivery information, visit our website at www.usps.com™

OFFICIAL USE

OFFICIAL USE

Arctos (Yunnan)

Phone

7022 2410 0000 2406 4369

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete Items 1, 2, and 3.

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

100

9590 9402 7420 2055 3562 21

3. *Adiposa Nourishae* (Thomson) from *modicum* (L.)

7022 2410 0000 0742 2202

Service Type	
☐ Adult Signature	☐ Priority Mail Express®
☐ Adult Signature Restricted Delivery	☐ Registered Mail™
☐ Adult Signature Restricted Delivery	☐ Registered Mail Restricted Delivery
☐ Certified Mail	☐ Signature Confirmation™
☐ Certified Mail Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery	
☐ Collect on Delivery Restricted Delivery	
☐ All Restricted Deliveries	

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

Domestic Return Recipient

COMPLETE THIS SECTION

2, and 3.
address on the reverse
the

ERS, LLC
PA ROAD
LE CA 92392



420 2055 3562 14

ar from service label)

410 0000 2406 4352

/ 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Kim

C. Date of Delivery

2/19

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

il Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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

ALICIA A. BELOCK, ESQ.
MICHAEL J. O'CONNOR, JR., ESQ.
AALRR PLC
4275 EXECUTIVE SQUARE SUITE 700
LA JOLLA, CA 92037



9590 9402 7420 2055 3562 21

2. Article Number (Transfer from service label)

7022 2410 0000 2406 4369

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

all Restricted Delivery

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

Domestic Return Receipt