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on behalf of herself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SAN DIEGO**

JONPENN C. BLANDI, an individual and on  
behalf of all others similarly situated,

Plaintiff,

v.

FRANCESCA RESTAURANT, LLC., a  
California limited liability company; SCOTT  
HARRIS HOSPITALITY, LLC, an Illinois  
limited liability company; and DOES 1  
through 100, inclusive,

Defendants.

CASE NO.: 37-2022-00049034-CU-OE-CTL

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PROVIDE MEAL PERIODS;
4. FAILURE TO PROVIDE REST PERIODS;
5. WAITING TIME PENALTIES;
6. WAGE STATEMENT VIOLATIONS;
7. FAILURE TO TIMELY PAY WAGES;
8. FAILURE TO INDEMNIFY;
9. UNFAIR COMPETITION.
10. CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT OF 2004, CAL. LABOR CODE SECTIONS 210, 226.3, 558, 1174.5, 1197.1 and 2699

**DEMAND FOR JURY TRIAL**

[Amount in Controversy Exceeds \$25,000.00]

1 Plaintiff Jonpenn C. Blandi (“Plaintiff”), on behalf of Plaintiff and all others similarly  
2 situated, alleges as follows:

### 3 **INTRODUCTION**

4 1. This is a Class Action, pursuant to Code of Civil Procedure section 382, against  
5 Francesca Restaurant LLC, and any of its respective subsidiaries or affiliated companies within the  
6 State of California (“Francesca Restaurant”), and Scott Harris Hospitality, LLC and any of its  
7 respective subsidiaries or affiliated companies within the State of California (“Harris Hospitality”)  
8 (collectively with DOES 1 through 100, as further defined below, “Defendants”) on behalf of  
9 Plaintiff and all other current and former non-exempt California employees employed by or formerly  
10 employed by Defendants (“Class Members”).

11 2. This is also a representative action, pursuant to the Labor Code Private Attorneys  
12 General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”). Plaintiff brings this  
13 action against the Defendants and any of their respective subsidiaries or affiliated companies and  
14 successors and assigns within the State of California. Plaintiff brings this representative action as a  
15 proxy for the Labor and Workforce Development Agency of the State of California (“LWDA”) on  
16 behalf of Plaintiff and all other current and former non-exempt employees of the Defendants who  
17 worked for Defendants in the state of California during the Civil Penalty Period (collectively, the  
18 “Aggrieved Employees”). Among other claims, Plaintiff seeks to redress the Defendants’ alleged  
19 failure to comply with various provisions of the California Labor Code, including but not limited to  
20 all provisions identified in Plaintiff’s filing with the LWDA (the “PAGA Letter”) which is attached  
21 hereto as **Exhibit 1**, and expressly includes claims for violations of California Labor Code sections  
22 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210, 212, 213, 221, 223, 226, 226.7, 227.3, 232, 232.5,  
23 246, *et seq.*, 404, 432, 432.3, 432.5, 432.6, 432.7, 510, 512, 558, 1102.5, 1174, 1174.5, 1182.5,  
24 1194, 1197, 1197.5, 1198.5, 1527, 2802, 2810.5, 3366, 3457, 6403, 6409.6, 6432, and 8397.4.

### 25 **PARTIES**

#### 26 **A. Plaintiff**

27 3. Plaintiff Jonpenn C. Blandi is a resident of the State of California. At all relevant  
28 times herein, Plaintiff is informed and believes, and based thereon allege that Defendants employed

1 Plaintiff as a non-exempt employee, with duties that included, but were not limited to, serving  
2 patrons, processing payments, managing inventory and cleaning bar supplies. Plaintiff is informed  
3 and believes, and based thereon alleges, that Plaintiff worked for Defendants from approximately  
4 August of 2021 through January of 2022.

5 **B. Defendants**

6 4. Plaintiff is informed and believes and based thereon alleges that defendant Francesca  
7 Restaurant is, and at all times relevant hereto was, a limited liability company organized and existing  
8 under and by virtue of the laws of the State of California and doing business in the County of San  
9 Diego, State of California.

10 5. Plaintiff is informed and believes and based thereon alleges that defendant Scott  
11 Harris Hospitality is, and at all times relevant hereto was, a limited liability company organized and  
12 existing under and by virtue of the laws of the State of Illinois and doing business in the County of  
13 San Diego, State of California.

14 6. The true names and capacities, whether individual, corporate, associate, or otherwise,  
15 of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff,  
16 who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474.  
17 Plaintiff is informed and believes and based thereon alleges that each of the defendants designated  
18 herein as DOE is legally responsible in some manner for the unlawful acts referred to herein.  
19 Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of  
20 the defendants designated hereinafter as DOES when such identities become known. Plaintiff is  
21 informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent  
22 to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or  
23 policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the  
24 other defendants. Whenever, heretofore or hereinafter, reference is made to "Defendants," it shall  
25 include Francesca Restaurant, Scott Harris Hospitality and any of their parent, subsidiary, or  
26 affiliated companies within the State of California, and DOES 1 through 100 identified herein.

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## JOINT LIABILITY ALLEGATIONS

7. Plaintiff is informed and believes and based thereon alleges that at all the times mentioned herein, each of the Defendants was the agent, principal, employee, employer, representative, joint venture or co-conspirator of each of the other defendants, either actually or ostensibly, and in doing the things alleged herein, acted within the course and scope of such agency, employment, joint venture, and conspiracy.

8. All of the acts and conduct described herein of each and every corporate defendant was duly authorized, ordered, and directed by the respective and collective defendant corporate employers, and the officers and management-level employees of said corporate employers. In addition thereto, said corporate employers participated in the aforementioned acts and conduct of their said employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned corporate employees, agents and representatives.

9. Plaintiff is informed and believes, and based thereon allege, that there exists such a unity of interest and ownership between Defendants, and each of them, that their individuality and separateness have ceased to exist.

10. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, are joint employers.

## JURISDICTION AND VENUE

11. Jurisdiction exists in the Superior Court of the State of California pursuant to Code of Civil Procedure section 410.10.

12. Venue is proper in San Diego County, California pursuant to Code of Civil Procedure sections 392, et seq. because, among other things, San Diego County is where the causes of action complained of herein arose; the county in which the employment relationship began; the county in which performance of the employment contract, or part of it, between Plaintiff and Defendants was due to be performed; the county in which the employment contract, or part of it, between Plaintiff

1 and Defendants was actually performed; and the county in which Defendants, or some of them,  
2 reside. Moreover, the unlawful acts alleged herein have a direct effect on Plaintiff and Class  
3 Members in San Diego County, and Defendants employ numerous Class Members in San Diego  
4 County.

5 13. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff was employed by  
6 Defendants during the applicable statutory period and suffered one or more of the Labor Code  
7 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties, as the term “civil  
8 penalty” is defined under *ZB N.A. v. Superior Court* (2019) 8 Cal.5th 175, under the Labor Code  
9 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus  
10 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former  
11 employees of Defendants during the Civil Penalty Period.

12 14. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative  
13 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*  
14 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the  
15 PAGA allegations described herein is not required.

16 15. During the period beginning one (1) year preceding the provision of notice to the  
17 LWDA regarding the herein-described Labor Code violations (the “Civil Penalty Period”),  
18 Defendants violated, *inter alia*, Labor Code sections 96, 98.6, 200, 201, 201.3, 202, 203, 204, 210,  
19 212, 213, 221, 223, 226, 226.3, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 404, 432, 432.3, 432.5, 432.6,  
20 432.7, 510, 512, 558, 1102.5, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.5, 1198.5, 1527,  
21 2699, 2802, 2810.5, 3366, 3457, 6403, 6409.6, 6432, and 8397.4, among others.

22 16. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees  
23 such as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within  
24 the statutory period, to bring a civil action to recover civil penalties pursuant to the procedures  
25 specified in Labor Code section 2699.3.

26 17. On or around December 7, 2022, Plaintiff provided written notice pursuant to Labor  
27 Code section 2699.3 online and by certified mail, with return receipt requested, of Defendants’  
28 violation of various, including the herein-described, provisions of the Labor Code, to the LWDA,

1 as well as by certified mail, with return receipt requested to Defendants, and each of them.

2 18. Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), the LWDA did not  
3 provide notice of its intention to investigate Defendants' alleged violations within sixty-five (65)  
4 calendar days of the December 7, 2022 postmarked date of the herein-described notice sent by  
5 Plaintiff to the LWDA and Defendants.

6 **FACTUAL BACKGROUND**

7 19. For at least four (4) years prior to the filing of this action and continuing to the  
8 present, Defendants have, at times, failed to pay overtime wages to Plaintiff, Class Members, and  
9 Aggrieved Employees, or some of them, in violation of California state wage and hour laws as a  
10 result of, without limitation, Plaintiff and Class Members working over eight (8) hours per day, forty  
11 (40) hours per week, and seven consecutive work days in a work week without being properly  
12 compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per  
13 week in a work week, and/or hours worked on the seventh consecutive work day in a work week  
14 by, among other things: failing to accurately track and/or pay for all minutes actually worked at the  
15 proper overtime rate of pay; engaging, suffering, or permitting employees to work off the clock,  
16 including, without limitation, by requiring employees to remain on-call, to suffer under Defendants'  
17 control to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock  
18 out for meal periods and continue working, to don and doff uniforms and/or safety equipment off  
19 the clock, to attend company meetings off the clock, to make phone calls or drive off the clock;  
20 failing to include all forms of remuneration, including non-discretionary bonuses, incentive pay,  
21 meal allowances, and other forms of remuneration into the regular rate of pay for the pay periods  
22 where overtime was worked and the additional compensation was earned for the purpose of  
23 calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or  
24 manipulation of time entries to show less hours than actually worked, and for paying straight pay  
25 instead of overtime pay, to the detriment of Plaintiff, Class Members and other Aggrieved  
26 Employees.

27 20. For at least four (4) years prior to the filing of this Action and continuing to the  
28 present, Defendants had and have a practice or policy of failing to compensate Plaintiff and other

1 Class Members and Aggrieved Employees with minimum wages for all hours worked or otherwise  
2 under Defendants' control as a result of, without limitation, failing to accurately track and/or pay  
3 for all minutes actually worked; by requiring employees: to remain on-call; to suffer under  
4 Defendants' control to complete pre-shift tasks before clocking in and post-shift tasks after clocking  
5 out, to clock out for meal periods and continue working, to don and doff uniforms and/or safety  
6 equipment off the clock, to attend company meetings off the clock, to make phone calls or drive off  
7 the clock; detrimental rounding of employee time entries, editing and/or manipulation of time entries  
8 to show less hours than actually worked; failing to pay reporting time pay; paid time off and vacation  
9 time owed; and failing to pay split shift premiums, to the detriment of Plaintiff and other Aggrieved  
10 Employees. As a result, Defendants failed to pay minimum wages to Plaintiff, Class Members, and  
11 Aggrieved Employees, or some of them, in violation of California state wage and hour laws to the  
12 detriment of Plaintiff, Class Members, and other Aggrieved Employees.

13 21. For at least four (4) years prior to the filing of this Action and continuing to the  
14 present, Defendants have, at times, failed to provide Plaintiff, Class Members, and Aggrieved  
15 Employees, or some of them, a full, timely thirty (30) minute uninterrupted meal period for days on  
16 which they worked more than five (5) hours in a work day and a second thirty (30) minute  
17 uninterrupted meal period for days on which they worked in excess of ten (10) hours in a work day.  
18 Moreover, Defendants failed to provide compensation for such unprovided meal periods as required  
19 by California wage and hour laws including, without limitation: payment for interrupted meal  
20 periods; payment for failing to provide timely meal periods; payment for failing to provide first and  
21 second meal periods; payment for providing short meal periods; payment for requiring that  
22 employees carry cellular telephones or walkie-talkies during meal periods; payment for not  
23 permitting employees to leave the premises; requiring on-duty/on-call meal periods; and/or auto-  
24 deducting meal periods that could not be auto-deducted by law or during which employees worked.

25 22. For at least four (4) years prior to the filing of this Action and continuing to the  
26 present, Defendants have, at times, failed to authorize and permit Plaintiff, Class Members, and  
27 Aggrieved Employees, or some of them, to take rest periods of at least ten (10) minutes per four (4)  
28 hours worked or major fraction thereof and failed to provide compensation for such unprovided rest

1 periods as required by California wage and hour laws by, without limitation: failing to provide rest  
2 periods all together; requiring that they be bundled together and/or with meal periods; interrupting  
3 them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not  
4 providing them in a timely fashion; and not permitting employees to leave the premises; and/or  
5 otherwise requiring on-duty/on-call rest periods.

6 23. For at least three (3) years prior to the filing of this Action and continuing to the  
7 present, Defendants have, at times, failed to pay Plaintiff, Class Members, and Aggrieved  
8 Employees, or some of them, the full amount of their wages owed to them upon termination and/or  
9 resignation as required by Labor Code sections 201 and 202, including for, without limitation,  
10 failing to pay overtime wages, minimum wages, and premium wages.

11 24. For at least one (1) year prior to the filing of this Action and continuing to the present,  
12 Defendants have, at times, failed to furnish Plaintiff, Class Members, and Aggrieved Employees, or  
13 some of them, with itemized wage statements that accurately reflect gross wages earned; total hours  
14 worked; net wages earned; all deductions; all applicable hourly rates in effect during the pay period  
15 and the corresponding number of hours worked at each hourly rate; the legal name of the employer  
16 and/or the name and address of the legal entity securing the employer's services if the employer is  
17 a farm labor contractor; and other such information as required by Labor Code section 226,  
18 subdivision (a). As a result thereof, Defendants have further failed to furnish employees with an  
19 accurate calculation of gross and net wages earned, as well as gross and net wages paid.

20 25. At all relevant times mentioned herein, Defendants had and have a policy or practice  
21 of failing to comply with Labor Code section 226, subdivision (a), by intentionally failing to furnish  
22 Plaintiff and other Aggrieved Employees with documents signed to obtain or hold employment  
23 under Labor Code section 432, personnel records under Labor Code section 1198.5, and time records  
24 under Labor Code section 1174, making it difficult for Plaintiff, Class Members, and other  
25 Aggrieved Employees to calculate their unpaid wages and/or premium payments, to the detriment  
26 of Plaintiffs and other Aggrieved Employees.

27 26. At all relevant times mentioned herein, Defendants had and have a policy or practice  
28 of failing to timely pay Plaintiff, Class Members, and other Aggrieved Employees, or some of them,

1 among other wages, all wages owed as a result of Defendants' practice or policy of failing to pay,  
2 among other wages, overtime wages, minimum wages, premium wages, paid time off and vacation  
3 time owed as required by Labor Code sections 201, 202, and 203.

4 27. For at least one (1) year prior to the filing of this Action and continuing to the present,  
5 Defendants have, at times, failed to pay Plaintiff, Class Members, and Aggrieved Employees, or  
6 some of them, the full amount of their wages for labor performed in a timely fashion as required  
7 under Labor Code section 204.

8 28. For at least three (3) years prior to the filing of this action and continuing to the  
9 present, Defendants have, at times, failed to indemnify Class Members and Aggrieved Employees,  
10 or some of them, for the costs incurred in laundering mandatory work uniforms and using cellular  
11 phones for work-related purposes.

12 29. Plaintiff, on their own behalf and on behalf of Class Members, brings this action  
13 pursuant to, including but not limited to, Labor Code sections 200, 201, 202, 203, 204, 226, 226.7,  
14 510, 512, 1194, 1194.2, 1197, 2802, and California Code of Regulations, Title 8, section 11040,  
15 seeking overtime wages, minimum wages, payment of premium wages for missed meal and rest  
16 periods, failure to pay timely wages, waiting time penalties, wage statement penalties, failure to  
17 indemnify work-related expenses, other such provisions of California law, and reasonable attorneys'  
18 fees and costs.

19 30. Defendants had and have a policy or practice of preventing Plaintiff, Class Members,  
20 and/or other Aggrieved Employees from disclosing violations of state and federal law, either within  
21 Defendants to their managers or outside to private attorneys or government officials, among others,  
22 in violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code  
23 section 1102.5. In addition, Plaintiff is informed and believes that Defendants' herein-described  
24 policies and/or practices prevent Plaintiff, Class Members, and/or other Aggrieved Employees from  
25 disclosing information about unsafe or discriminatory working conditions, or about wage and hour  
26 violations in violation of Labor Code section 232 and 232.5.

27 31. Plaintiff, on Plaintiff's own behalf and on behalf of Class Members, pursuant to  
28 Business and Professions Code sections 17200 through 17208, also seeks (an) injunction(s)

1 prohibiting Defendants from further violating the Labor Code and requiring the establishment of  
2 appropriate and effective means to prevent further violations, as well as all monies owed but  
3 withheld and retained by Defendants to which Plaintiff and Class Members are entitled, as well as  
4 restitution of amounts owed.

5 32. Defendants had and have a policy or practice of preventing Plaintiff and/or other  
6 Aggrieved Employees from engaging in lawful conduct during non-work hours, thus violating state  
7 statutes entitling employees to disclose wages, working conditions, and illegal conduct, including,  
8 without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5,  
9 subdivision (k). Plaintiff is informed and believes that this lawful conduct includes the exercise of  
10 Plaintiff's and/or other Aggrieved Employee's constitutional rights of freedom of speech and  
11 economic liberty.

12 33. Plaintiff, in Plaintiff's representative capacity, seeks civil penalties under Labor  
13 Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 for the herein-described acts, which violate  
14 the California Labor Code as described above, including on behalf of Plaintiff and other Aggrieved  
15 Employees pursuant to PAGA.

#### 16 **CLASS ACTION ALLEGATIONS**

17 34. Plaintiff brings this action on behalf of Plaintiff and Class Members as a class action  
18 pursuant to Code of Civil Procedure section 382. Plaintiff seeks to represent a class of all current  
19 and former non-exempt employees of Defendants within the State of California at any time  
20 commencing four (4) years preceding the filing of Plaintiff's complaint up until the time that notice  
21 of the class action is provided to the class (collectively referred to as "Class Members").

22 35. Plaintiff reserves the right under California Rule of Court rule 3.765, subdivision (b)  
23 to amend or modify the class description with greater specificity, further divide the defined class  
24 into subclasses, and to further specify or limit the issues for which certification is sought.

25 36. This action has been brought and may properly be maintained as a class action under  
26 the provisions of Code of Civil Procedure section 382 because there is a well-defined community  
27 of interest in the litigation and the proposed Class is easily ascertainable.

28 ///

1           **A.     Numerosity**

2           37.           The potential Class Members as defined are so numerous that joinder of all the  
3 members of the Class is impracticable. While the precise number of Class Members has not been  
4 determined yet, Plaintiff is informed and believes that there are over seventy-five (75) Class  
5 Members employed by Defendants within the State of California.

6           38.           Accounting for employee turnover during the relevant periods necessarily increases  
7 this number. Plaintiff alleges Defendants' employment records would provide information as to the  
8 number and location of all Class Members. Joinder of all members of the proposed Class is not  
9 practicable.

10           **B.     Commonality**

11           39.           There are questions of law and fact common to Class Members. These common  
12 questions include, but are not limited to:

- 13           A.     Did Defendants violate Labor Code sections 510 and 1194 by failing to pay all hours  
14                 worked at a proper overtime rate of pay?
- 15           B.     Did Defendants violate Labor Code sections 510, 1194 and 1197 by failing to pay  
16                 for all other time worked at the employee's regular rate of pay and a rate of pay that  
17                 is greater than the applicable minimum wage?
- 18           C.     Did Defendants violate Labor Code section 512 by not authorizing or permitting  
19                 Class Members to take compliant meal periods?
- 20           D.     Did Defendants violate Labor Code section 226.7 by not providing Class Members  
21                 with additional wages for missed or interrupted meal periods?
- 22           E.     Did Defendants violate applicable Wage Orders by not authorizing or permitting  
23                 Class Members to take compliant rest periods?
- 24           F.     Did Defendants violate Labor Code section 226.7 by not providing Class Members  
25                 with additional wages for missed rest periods?
- 26           G.     Did Defendants violate Labor Code sections 201 and 202 by failing to pay Class  
27                 Members upon termination or resignation all wages earned?
- 28           H.     Are Defendants liable to Class Members for waiting time penalties under Labor Code

section 203?

I. Did Defendants violate Labor Code section 226, subdivision (a) by not furnishing Class Members with accurate wage statements?

J. Did Defendants fail to pay Class Members in a timely fashion as required under Labor Code section 204?

K. Did Defendants fail to indemnify Class Members for all necessary expenditures or losses incurred in direct consequence of the discharge of their duties or by obedience to the directions of Defendants as required under Labor Code section 2802?

L. Did Defendants violate the Unfair Competition Law, Business and Professions Code section 17200, *et seq.*, by their unlawful practices as alleged herein?

M. Are Class Members entitled to restitution of wages under Business and Professions Code section 17203?

N. Are Class Members entitled to costs and attorneys' fees?

O. Are Class Members entitled to interest?

**C. Typicality**

40. The claims of Plaintiff herein alleged are typical of those claims which could be alleged by any Class Members, and the relief sought is typical of the relief which would be sought by each Class Member in separate actions. Plaintiff and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged herein.

**D. Adequacy of Representation**

41. Plaintiff will fairly and adequately represent and protect the interest of Class Members. Counsel who represents Plaintiff is competent and experienced in litigating wage and hour class actions.

**E. Superiority of Class Action**

42. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to Class Members predominate over any questions affecting only

1 individual Class Members. Class Members, as further described therein, have been damaged and  
2 are entitled to recovery by reason of Defendants' policies and/or practices that have resulted in the  
3 violation of the Labor Code at times, as set out herein.

4 43. Class action treatment will allow Class Members to litigate their claims in a manner  
5 that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of  
6 any difficulties that are likely to be encountered in the management of this action that would  
7 preclude its maintenance as a class action.

#### 8 **FIRST CAUSE OF ACTION**

##### 9 **(Failure to Pay Overtime Wages – Against All Defendants)**

10 44. Plaintiff realleges and incorporates by reference all of the allegations contained in  
11 the preceding paragraphs as though fully set forth herein.

12 45. At all relevant times, Plaintiff and Class Members were employees or former  
13 employees of Defendants covered by Labor Code sections 510, 1194 and 1199, as well as applicable  
14 Wage Orders.

15 46. At all times relevant to this Complaint, Labor Code section 510 was in effect and  
16 provided: "(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in  
17 one workday and any work in excess of forty hours in any one workweek . . . shall be compensated  
18 at the rate of no less than one and one-half times the regular rate of pay for an employee."

19 47. At all times relevant to this Complaint, Labor Code section 510 further provided that  
20 "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice  
21 the regular rate of pay for an employee. In addition, any work in excess of eight hours on any  
22 seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of  
23 pay."

24 48. Four (4) years prior to the filing of the Complaint in this Action through the present,  
25 Plaintiff and Class Members, at times, worked for Defendants during shifts that consisted of more  
26 than eight (8) hours in a workday and/or more than forty hours in a workweek, and/or seven (7)  
27 consecutive workdays in a workweek, without being paid overtime wages for all hours worked as a  
28 result of, including but not limited to, failing to accurately track and/or pay for all minutes actually

1 worked at the proper overtime rate of pay to the detriment of Plaintiff and Class Members.

2 49. Accordingly, by requiring Plaintiff and Class Members to, at times, work greater  
3 than eight (8) hours per workday, forty (40) hours per workweek, and/or seven (7) straight workdays  
4 without properly compensating overtime wages at the proper overtime rate of pay, Defendants, on  
5 occasion, willfully violated the provisions of the Labor Code, among others, sections 510, 1194, and  
6 applicable IWC Wage Orders, and California law.

7 50. As a result of the unlawful acts of Defendants, Plaintiff and Class Members have  
8 been deprived of overtime wages in amounts to be determined at trial, and are entitled to recovery,  
9 plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 1194  
10 and 1199, Code of Civil Procedure section 1021.5 and 1032, and Civil Code section 3287.

11 **SECOND CAUSE OF ACTION**

12 **(Failure to Pay Minimum Wages – Against All Defendants)**

13 51. Plaintiff realleges and incorporates by reference all of the allegations contained in  
14 the preceding paragraphs as though fully set forth herein.

15 52. At all relevant times, Plaintiff and Class Members were employees or former  
16 employees of Defendants covered by Labor Code sections 1197, 1199 and applicable Wage Orders.

17 53. Pursuant to Labor Code section 1197 and applicable Wage Orders, Plaintiff and  
18 Class Members were entitled to receive minimum wages for all hours worked or otherwise under  
19 Defendants' control.

20 54. For four (4) years prior to the filing of the Complaint in this Action through the  
21 present, Defendants failed, at times, to accurately track and/or pay for all hours actually worked at  
22 their regular rate of pay that is above the minimum wage to the detriment of Plaintiff and Class  
23 Members.

24 55. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have  
25 suffered damages in an amount, subject to proof, to the extent they were not paid minimum wages  
26 for all hours worked or otherwise due.

27 56. Pursuant to Labor Code sections 218.6, 1194, 1194.2, Code of Civil Procedure  
28 sections 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to

1 recover the full amount of unpaid minimum wages, interest and penalties thereon, liquidated  
2 damages, reasonable attorneys' fees and costs of suit.

3 **THIRD CAUSE OF ACTION**

4 **(Failure to Provide Meal Periods – Against All Defendants)**

5 57. Plaintiff realleges and incorporates by reference all of the allegations contained in  
6 the preceding paragraphs as though fully set forth herein.

7 58. At all relevant times, Plaintiff and Class Members were employees or former  
8 employees of Defendants covered by Labor Code section 512 and applicable Wage Orders.

9 59. Pursuant to Labor Code section 512 and applicable Wage Orders, no employer shall  
10 employ an employee for a work period of more than five (5) hours without a timely meal break of  
11 not less than thirty (30) minutes in which the employee is relieved of all of his or her duties.  
12 Furthermore, no employer shall employ an employee for a work period of more than ten (10) hours  
13 per day without providing the employee with a second timely meal period of not less than thirty (30)  
14 minutes in which the employee is relieved of all of his or her duties.

15 60. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee  
16 with a meal period as provided in the applicable Wage Order of the Industrial Welfare Commission,  
17 the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate  
18 of compensation for each workday that the meal period is not provided.

19 61. For four (4) years prior to the filing of the Complaint in this Action through the  
20 present, Plaintiff and Class Members were, at times, not provided complete, timely 30-minute, duty-  
21 free uninterrupted meal periods every five hours of work without waiving the right to take them, as  
22 permitted. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the  
23 Class Member's regular rate of compensation on the occasions that Class Members were not  
24 provided compliant meal periods.

25 62. By their failure to provide Plaintiff and Class Members compliant meal periods as  
26 contemplated by Labor Code section 512, among other California authorities, and failing, at times,  
27 to provide compensation for such unprovided meal periods, as alleged above, Defendants willfully  
28 violated the provisions of Labor Code section 512 and applicable Wage Orders.

63. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have suffered damages in an amount, subject to proof, to the extent they were not paid additional pay owed for missed, untimely, interrupted, incomplete and/or on-duty meal periods.

64. Plaintiff and Class Members are entitled to recover the full amount of their unpaid additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7, Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

#### **FOURTH CAUSE OF ACTION**

##### **(Failure to Provide Rest Periods – Against All Defendants)**

65. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth herint.

66. At all relevant times, Plaintiff and Class Members were employees or former employees of Defendants covered by applicable Wage Orders.

67. California law and applicable Wage Orders require that employers "authorize and permit" employees to take ten (10) minute rest periods in about the middle of each four (4) hour work period "or major fraction thereof." Accordingly, employees who work shifts of three and-a-half (3 ½ ) to six (6) hours must be provided ten (10) minutes of paid rest period, employees who work shifts of more than six (6) and up to ten (10) hours must be provided with twenty (20) minutes of paid rest period, and employees who work shifts of more than ten (10) hours must be provided thirty (30) minutes of paid rest period.

68. Pursuant to Labor Code section 226.7, if an employer fails to provide an employee with a meal period or rest period as provided in the applicable Wage Order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

69. For four (4) years prior to the filing of the Complaint in this Action through the present, Plaintiff and Class Members were, at times, not authorized or permitted to take complete, timely 30-minute, duty-free uninterrupted rest periods every four (4) hours of work or major fraction thereof. Moreover, at times, Defendants failed to provide one (1) additional hour of pay at the Class

1 Member's regular rate of compensation on the occasions that Class Members were not authorized  
2 or permitted to take compliant rest periods.

3 70. By their failure, at times, to authorize and permit Plaintiff and Class Members to take  
4 rest periods contemplated by California law, and one (1) additional hour of pay at the employee's  
5 regular rate of compensation for such unprovided rest periods, as alleged above, Defendants  
6 willfully violated the provisions of Labor Code section 226.7 and applicable Wage Orders.

7 71. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have  
8 suffered damages in an amount, subject to proof, to the extent they were not paid additional pay  
9 owed for rest periods that they were not authorized or permitted to take.

10 72. Plaintiff and Class Members are entitled to recover the full amount of their unpaid  
11 additional pay for unprovided compliant meal periods, in amounts to be determined at trial, plus  
12 interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226 and 226.7,  
13 Code of Civil Procedure sections 1021.5 and 1032, and Civil Code section 3287.

14 **FIFTH CAUSE OF ACTION**

15 **(Failure to Pay All Wages Due Upon Termination – Against All Defendants)**

16 73. Plaintiff realleges and incorporates by reference all of the allegations contained in  
17 the preceding paragraphs as though fully set forth herein.

18 74. At all relevant times, Plaintiff and Class Members were employees or former  
19 employees of Defendants covered by Labor Code sections 201, 202 and 203, as well as applicable  
20 Wage Orders.

21 75. Pursuant to Labor Code sections 201 and 202, Plaintiff and Class Members were  
22 entitled upon termination to timely payment of all wages earned and unpaid prior to termination.  
23 Discharged Class Members were entitled to payment of all wages earned and unpaid prior to  
24 discharge immediately upon termination. Class Members who resigned were entitled to payment  
25 of all wages earned and unpaid prior to resignation within 72 hours after giving notice of resignation  
26 or, if they gave 72 hours previous notice, they were entitled to payment of all wages earned and  
27 unpaid at the time of resignation.

28 76. Plaintiff is informed and believes, and based thereon alleges, that in the three (3)

1 years before the filing of the Complaint in this Action through the present, Defendants, due to the  
2 failure, at times, to provide overtime wages mentioned above, failed to pay Plaintiff and Class  
3 Members all wages earned prior to resignation or termination in accordance with Labor Code  
4 sections 201 or 202.

5 77. Plaintiff is informed and believes Defendants' failure, at times, to pay Plaintiff and  
6 Class Members all wages earned prior to termination or resignation in accordance with Labor Code  
7 sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by Plaintiff  
8 and Class Members at the time of termination in accordance with Labor Code sections 201 and 202,  
9 but intentionally adopted policies or practices incompatible with the requirements of Labor Code  
10 sections 201 and 202 resulting in the failure, at times, to pay all wages earned prior to termination  
11 or resignation..

12 78. Pursuant to Labor Code section 203, Plaintiff and Class Members are entitled to  
13 waiting time penalties from the date their earned and unpaid wages were due, upon termination or  
14 resignation, until paid, up to a maximum of thirty (30) days.

15 79. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have  
16 suffered damages in an amount subject to proof, to the extent they were not paid for all wages earned  
17 prior to termination or resignation.

18 80. Pursuant to Labor Code section 203 and 218.6, Code of Civil Procedure sections  
19 1021.5 and 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover  
20 waiting time penalties, interest, and their costs of suit, as well.

21 **SIXTH CAUSE OF ACTION**

22 **(Failure to Provide Accurate Wage Statements – Against All Defendants)**

23 81. Plaintiff realleges and incorporates by reference all of the allegations contained in  
24 the preceding paragraphs as though fully set forth herein.

25 82. At all relevant times, Plaintiff and Class Members were employees or former  
26 employees of Defendants covered by Labor Code section 226, as well as applicable Wage Orders.

27 83. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and Class Members  
28 were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized

1 statement that accurately reflects, among other things, gross wages earned; total hours worked; net  
2 wages earned; all applicable hourly rates in effect during the pay period and the corresponding  
3 number of hours worked at each hourly rate; and the name and address of the legal entity that is the  
4 employer, among other things.

5 84. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year  
6 before the filing of the Complaint in this Action through the present, Defendants failed to comply  
7 with Labor Code section 226, subdivision (a) by adopting policies and practices that resulted in their  
8 failure, at times, to furnish Plaintiff and Class Members with accurate itemized statements that  
9 accurately reflect, among other things, gross wages earned; total hours worked; net wages earned;  
10 all applicable hourly rates in effect during the pay period and the corresponding number of hours  
11 worked at each hourly rate; and the name and address of the legal entity that is the employer, among  
12 other things.

13 85. Defendants' failure to, at times, provide Plaintiff and Class Members with accurate  
14 wage statements was knowing, intentional, and willful. Defendants had the ability to provide  
15 Plaintiff and the other Class Members with accurate wage statements, but, at times, willfully  
16 provided wage statements that Defendants knew were not accurate.

17 86. As a result of Defendants' unlawful conduct, Plaintiff and Class Members have  
18 suffered injury. The absence of accurate information on Class Members' wage statements at times  
19 has delayed timely challenge to Defendants' unlawful pay practices; requires discovery and  
20 mathematical computations to determine the amount of wages owed; causes difficulty and expense  
21 in attempting to reconstruct time and pay records; and led to submission of inaccurate information  
22 about wages and amounts deducted from wages to state and federal governmental agencies, among  
23 other things.

24 87. Pursuant to Labor Code section 226, subdivision (e), Plaintiff and Class Members  
25 are entitled to recover \$50 for the initial pay period during the period in which violation of Labor  
26 Code section 226 occurred and \$100 for each violation of Labor Code section 226 in a subsequent  
27 pay period, not to exceed an aggregate \$4,000.00 per employee.

28 88. Pursuant to Labor Code sections 226, subdivisions (e) and (g), Code of Civil

1 Procedure section 1032, Civil Code section 3287, Plaintiff and Class Members are entitled to  
2 recover the full amount of penalties due under Labor Code section 226, subdivision (e), reasonable  
3 attorneys' fees, and costs of suit.

4 **SEVENTH CAUSE OF ACTION**

5 **(Failure to Timely Pay Wages During Employment – Against All Defendants)**

6 89. Plaintiff reallege each and every allegation set forth in the preceding paragraphs and  
7 incorporate each by reference as though fully set forth herein.

8 90. At all relevant times, Plaintiff and Class Members were employees or former  
9 employees of Defendants covered by Labor Code section 204 and applicable Wage Orders.

10 91. Labor Code section 204 provides that “[l]abor performed between the 1<sup>st</sup> and 15<sup>th</sup>  
11 days, inclusive, of any calendar month shall be paid for between the 16<sup>th</sup> and 26<sup>th</sup> day of the month  
12 during which the labor was performed, and labor performed between the 16<sup>th</sup> and the last day,  
13 inclusive, of any calendar month, shall be paid for between the 1<sup>st</sup> and 10<sup>th</sup> day of the following  
14 month.”

15 92. Labor Code section 210, subdivision (a) states that “[i]n addition to, and entirely  
16 independent and apart from, any other penalty provided in this article, every person who fails to pay  
17 the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and  
18 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars  
19 (\$100) for each failure to pay each employee” and “(2) For each subsequent violation, or any willful  
20 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25  
21 percent of the amount unlawfully withheld.”

22 93. Plaintiff is informed and believes, and based thereon alleges, that in the one (1) year  
23 before the filing of the Complaint in this Action through the present, Defendants employed policies  
24 and practices that resulted in, at times, not paying Plaintiff and Class Members in accordance with  
25 Labor Code section 204.

26 94. Pursuant to Labor Code section 210, Plaintiff and Class Members are entitled to  
27 recover penalties for Defendants' violations of Labor Code section 204, in the amount of one  
28 hundred dollars (\$100) for each initial violation per Class Member, and two hundred dollars (\$200)

1 for each subsequent violation in connection with each payment that was made in violation of Labor  
2 Code section 204 per Class Member, plus 25 percent of the amount unlawfully withheld.

3 95. Pursuant to Labor Code section 218.6, Code of Civil Procedure sections 1021.5 and  
4 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recovery of penalties,  
5 interest, and their costs of suit, as well.

6 **EIGHTH CAUSE OF ACTION**

7 **(Violation of Labor Code § 2802 – Against All Defendants)**

8 96. Plaintiff reallege and incorporate by reference all of the allegations contained in the  
9 preceding paragraphs as though fully set forth herein.

10 97. At all relevant times, Plaintiff and Class Members were employees or former  
11 employees of Defendants covered by Labor Code section 2802 and applicable Wage Orders.

12 98. Labor Code section 2802, subdivision (a) provides that “an employer shall indemnify  
13 his or her employee for all necessary expenditures or losses incurred by the employee in direct  
14 consequence of the discharge of his or her duties . . .”

15 99. For three (3) years prior to the filing of the Complaint in this Action through the  
16 present, Defendants required Plaintiff and Class Members, or some of them, to incur, at times,  
17 necessary expenditures or losses in direct consequence of the discharge of their duties or at the  
18 obedience to the directions of Defendants that included, without limitation: laundering mandatory  
19 work uniforms.

20 100. During that time period, Plaintiff is informed and believes, and based thereon allege  
21 that Defendants failed and refused, and still fail and refuse, at times, to reimburse Plaintiff and  
22 Class Members for those losses and/or expenditures.

23 101. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have  
24 suffered damages in an amount subject to proof, to the extent they were not reimbursed for the  
25 herein-described losses and/or expenditures.

26 102. Pursuant to Labor Code section 2802, Code of Civil Procedure sections 1021.5 and  
27 1032, and Civil Code section 3287, Plaintiff and Class Members are entitled to recover  
28 reimbursement for their herein-described losses and/or expenditures, reasonable attorneys’ fees and

costs of suit.

**NINTH CAUSE OF ACTION**

**(Unfair Competition – Against All Defendants)**

103. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

104. Plaintiff is informed and believes, and based thereon alleges that the unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. Due to their unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to compensate employees in accordance with the Labor Code.

105. As a result of Defendants' unfair competition as alleged herein, Plaintiff and Class Members have suffered injury in fact and lost money or property.

106. Pursuant to Business and Professions Code section 17203, Plaintiff and Class Members are entitled to (an) injunction(s) prohibiting Defendants from further violating the Labor Code and requiring the establishment of appropriate and effective means to prevent further violations, as well as restitution of all wages and other monies owed to them under the Labor Code, including interest thereon, in which they had a property interest and which Defendants nevertheless failed to pay them and instead withheld and retained for themselves. Restitution of the money owed to Plaintiff and Class Members is necessary to prevent Defendants from becoming unjustly enriched by their failure to comply with the Labor Code.

107. Plaintiff and Class Members are entitled to costs of suit under Code of Civil Procedure section 1032 and interest under Civil Code section 3287.

**TENTH CAUSE OF ACTION**

**(Civil Penalties under the Private Attorneys General Act (2004) – Against All Defendants)**

108. Plaintiff realleges and incorporates by reference all of the allegations contained in the preceding paragraphs as though fully set forth herein.

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1 113. Labor Code section 226.3 states that “[a]ny employer who violates subdivision (a)  
2 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)  
3 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for  
4 each violation in a subsequent citation, for which the employer fails to provide the employee a wage  
5 deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

6 114. Labor Code section 226.3 further provides that “[t]he civil penalties provided for in  
7 this section are in addition to any other penalty provided by law.”

8 115. Plaintiff is informed and believes, and based thereon alleges, that Defendants had  
9 and have a policy or practice of failing to furnish non-exempt employees, including, without  
10 limitation, Plaintiff, itemized wage statements that accurately reflect: reflect gross wages earned;  
11 total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and  
12 the corresponding number of hours worked at each hourly rate; and other such information as  
13 required by Labor Code section 226, subdivision (a).

14 116. Pursuant to Labor Code section 226.3, Plaintiff and other Aggrieved Employees are  
15 entitled to recover civil penalties for Defendants’ violation of Labor Code section 226, subdivision  
16 (a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period  
17 for the initial violation, and one thousand dollars (\$1,000) for each Aggrieved Employee per pay  
18 period for each subsequent violation.

19 Violation of Labor Code § 558

20 117. Pursuant to Labor Code section 558, subdivision (a): “Any employer or other person  
21 acting on behalf of an employer who violates, or causes to be violated . . . any provision regulating  
22 hours and days of work in any of the Industrial Welfare Commission” shall be subject to a civil  
23 penalty as follows:

24 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and  
25 for each pay period for which the employee was underpaid in addition to an  
26 amount sufficient to recover underpaid wages;

27 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid  
28 employee for each pay period for which the employee was underpaid in

addition to an amount sufficient to recover underpaid wages;

(3) Wages recovered pursuant to this section shall be paid to the affected employee.

118. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated, or caused to be violated, the Labor Code sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be paid with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employer, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information.

119. As a direct and proximate result of the herein-described Labor Code violations, pursuant to Labor Code section 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Labor Code violations in the amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars (\$100) for each Aggrieved Employee per pay period for each subsequent violation.

### Violation of Labor Code § 1174.5

120. At all times mentioned herein, Labor Code section 1174, subdivision (b) has required every person employing labor in California to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

121. At all times mentioned herein, Labor Code section 1174, subdivision (c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

122. At all times mentioned herein, Labor Code section 1174, subdivision (d) has required

1 every person employing labor in California to “[k]eep, at a central location in the state or at the  
2 plants or establishments at which employees are employed, payroll records showing the hours  
3 worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable  
4 piece rate paid to, employees employed at the respective plants or establishments. These records  
5 shall be kept in accordance with rules established for this purpose by the commission, but in any  
6 case, shall be kept on file for not less than three years. An employer shall not prohibit an employee  
7 from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units  
8 earned.”

9 123. Pursuant to Labor Code section 1174.5, “[a]ny person employing labor who willfully  
10 fails to maintain the records required by subdivision (c) of [Labor Code] Section 1174 or accurate  
11 and complete records required by subdivision (d) of [Labor Code] Section 1174, or to allow any  
12 member of the commission or employees of the division to inspect records pursuant to subdivision  
13 (b) of [Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

14 124. Plaintiff is informed and believes, and based thereon alleges, that Defendants have  
15 willfully failed keep adequate or accurate time records including wage statements and similar  
16 payroll documents under Labor Code section 226, documents signed to obtain or hold employment  
17 under Labor Code section 432, and time records under Labor Code section 1174.

18 125. As a direct and proximate result of the herein-described Labor Code violations,  
19 pursuant to Labor Code section 1174.5, Plaintiff and other Aggrieved Employees are entitled to  
20 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount of five  
21 hundred dollars (\$500) per violation per Aggrieved Employee.

22 Violation of Labor Code § 1197.1

23 126. Pursuant to Labor Code section 1197.1, subdivision (a): “Any employer or other  
24 person acting either individually or as an officer, agent, or employee of another person, who pays  
25 or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or  
26 local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages,  
27 liquidated damages payable to the employee, and any applicable penalties imposed pursuant to  
28 Section 203 as follows:

- 1 (1) For any initial violation that is intentionally committed, one hundred dollars  
2 (\$100) for each underpaid employee for each pay period for which the  
3 employee is underpaid. This amount shall be in addition to an amount  
4 sufficient to recover underpaid wages, liquidated damages pursuant to  
5 Section 1194.2, and any applicable penalties imposed pursuant to Section  
6 203.
- 7 (2) For each subsequent violation for the same specific offense, two hundred fifty  
8 dollars (\$250) for each underpaid employee for each pay period for which the  
9 employee is underpaid regardless of whether the initial violation is  
10 intentionally committed. This amount shall be in addition to an amount  
11 sufficient to recover underpaid wages, liquidated damages pursuant to  
12 Section 1194.2, and any applicable penalties imposed pursuant to Section  
13 203.
- 14 (3) Wages, liquidated damages, and any applicable penalties imposed pursuant  
15 to Section 203, recovered pursuant to this section shall be paid to the affected  
16 employee.”

17 127. Plaintiff is informed and believes, and based thereon alleges, that Defendants caused  
18 Plaintiff and Aggrieved Employees not to be paid minimum wages as a result of Defendants, without  
19 limitation, routinely failing to pay Plaintiff or other Aggrieved Employees’ to pay minimum wages  
20 for all hours worked, entitling Employee and other aggrieved employees to actual and liquidated  
21 damages.

22 128. As a direct and proximate result of the herein-described Labor Code violations,  
23 pursuant to Labor Code section 1197.1, Plaintiff and other Aggrieved Employees are entitled to  
24 recover civil penalties for Defendants’ herein-described Labor Code violations in the amount one  
25 hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial violation, and  
26 two hundred and fifty dollars (\$250) for each Aggrieved Employee per pay period for each  
27 subsequent violation.

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- 1174.5, 1197.1, and 2699;
- P. An award of reasonable attorneys’ fees and costs pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699;
- Q. For costs of suit incurred herein;
- R. For reasonable attorneys’ fees; and
- S. For such other and further relief as the Court deems just and proper.

Dated: December 7, 2023 BIBIYAN LAW GROUP, P.C.

BY: Brandon M. Chang  
DAVID D. BIBIYAN  
VEDANG J. PATEL  
BRANDON M. CHANG  
Attorneys for Plaintiff JONPENN C. BLANDI on  
behalf of herself and all others similarly situated

# **EXHIBIT 1**



**BIBIYAN LAW GROUP**, P.C.

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December 7, 2022

**PAGA NOTICE FILED ELECTRONICALLY**

Re: Notice Letter of Jonpenn C. Blandi on Behalf of Herself and Aggrieved Employees Under California Labor section 2699.3

|           |                                                                             |                                                                                               |
|-----------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Employer: | Francesca Restaurant, LLC<br>890 Supreme Drive<br>Bensenville, IL 60106     | CSC Lawyers Incorporating Service<br>2710 Gateway Oak Dr., Suite 150N<br>Sacramento, CA 95833 |
|           | Scott Harris Hospitality, LLC<br>820 Supreme Drive<br>Bensenville, IL 60062 | Peter Finocchiaro<br>1500 Skokie Blvd Ste 303<br>Northbrook, IL 60062                         |

To Whom It May Concern:

This letter shall constitute notice under Labor Code section 2699.3 (hereinafter “PAGA Notice”). The \$75 filing fee for the PAGA Notice was paid online by credit card at the time this PAGA Notice was submitted online to the Department of Industrial Relations.

This PAGA Notice concerns Jonpenn C. Blandi’s (“Employee”) employment with Employee’s former employers: Francesca Restaurant, LLC and Scott Harris Hospitality, LLC. Employee was employed as a non-exempt employee of Francesca Restaurant, LLC and Scott Harris Hospitality, LLC from approximately August of 2021 through approximately January of 2022, with duties that included, but were not limited to, serving patrons, processing payments, managing inventory and cleaning bar supplies. In connection with the alleged claims for failure to comply with Labor Code section 6409.6, Labor Code section 2810.5, Labor Code section 203, Labor Code section 226, Labor Code section 246, *et seq.*, Labor Code section 432, Labor Code section 1198.5, Labor Code section 2802, restraints on competition, whistleblowing and freedom of speech, Employee seeks to represent all employees of Francesca Restaurant, LLC and Scott Harris Hospitality, LLC, and each of them, as well as their parents, subsidiaries and affiliates (hereinafter, collectively, “Employer”). On all other claims mentioned herein, Employee seeks to represent only non-exempt employees of Employer.

Employee and other aggrieved employees are covered by Labor Code section 510 and applicable Wage Orders. Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of requiring its employees to work more than eight (8) hours per day, forty (40) hours per week, and/or seven (7) straight workdays in a workweek without

paying them proper overtime wages, as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to come early to work and leave late work without being able to clock in for all that time, to suffer under Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make phone calls or drive off the clock, and/or go through security screenings and/or temperature checks off the clock; failing to include all forms of remuneration, including non-discretionary bonuses, incentive pay, meal allowances, mask allowances, gift cards and other forms of remuneration into the regular rate of pay for the pay periods where overtime was worked and the additional compensation was earned for the purpose of calculating the overtime rate of pay; detrimental rounding of employee time entries, editing and/or manipulation of time entries to show less hours than actually worked, and for paying straight pay instead of overtime pay to the detriment of Employee and other aggrieved employees. Consequently, Employee is informed and believes, and based thereon alleges, that Employer violated Labor Code sections 510, 1194, and applicable Wage Orders based on its practice of providing total compensation that is less than the required legal overtime compensation for the overtime worked, entitling Employee and other aggrieved employees to damages. Employer would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of failing to compensate Employee and other aggrieved employees with minimum wages for all hours worked or otherwise under Employer's control as a result of, without limitation, failing to accurately track and/or pay for all minutes actually worked; engaging, suffering, or permitting employees to work off the clock, including, without limitation, by requiring employees: to come early to work and leave late work without being able to clock in for all that time, to suffer under Employer's control due to long lines for clocking in, to complete pre-shift tasks before clocking in and post-shift tasks after clocking out, to clock out for meal periods and continue working, to clock out for rest periods, to don and doff uniforms and/or safety equipment off the clock, to attend company meetings off the clock, to make phone calls or drive off the clock; detrimental rounding of employee time entries; editing and/or manipulation of time entries to show less hours than actually worked; and failing to pay split shift premiums. In addition, Employee and other aggrieved employees were required to report to work, and did report, but were not put to work and/or were furnished less than half their usual or scheduled day's work without being paid for half the usual or scheduled work at their regular rate of pay. As such, Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code sections 221, 223, 1197, 1182.12, Cal. Code Regs, title 8, section 110404(5)(A), and applicable Wage Orders based on its continued failure to pay minimum wages for all hours worked, entitling Employee and other aggrieved employees to actual and liquidated damages under, without limitation, Labor Code sections 1194 and 1194.2. Employer would also be liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a policy or practice of compelling its employees to work in excess of five (5) and ten (10) hours per day without being afforded uninterrupted, timely, and complete 30-minute meal periods or compensation in lieu thereof including, without limitation: by interrupting meal periods; not providing timely meal periods; failing to provide first and second meal periods; providing short meal periods; requiring that employees carry cellular telephones or walkie-talkies during meal periods; not permitting employees to leave the premises; otherwise requiring on-duty/on-call meal periods; and auto-deducting meal periods that could not be auto-deducted by law or during which employees worked. Consequently, Employee is informed and believes, and based thereon alleges, that Employer violated Labor Code section 512, entitling Employee and other aggrieved employees to premium payments under Labor Code section 226.7. However, Employee is informed and believes that those premium payments under Labor Code section 226.7 were not made, either, for these non-compliant meal periods, either at all or at the proper regular rate of pay. Employer would thus be liable for civil penalties pursuant to Labor Code sections 558 and 2699 for both failing to authorize the taking of compliant meal periods, as well as for failing to provide premium pay under Labor Code section 226.7.

Employee is informed and believes, and based thereon alleges, that Employer maintains policies or practices of compelling its non-exempt employees, including, without limitation, Employee, to work over four-hour periods (or major fractions thereof) without authorizing and permitting Employee and other aggrieved employees to take uninterrupted, timely, and complete ten-minute rest periods in which the employees are completely relieved of all of their duties, including, without limitation: by failing to provide rest periods all together; requiring that they be bundled together and/or with meal periods; interrupting them; requiring that employees carry cellular telephones or walkie-talkies during rest periods not providing them in a timely fashion; and not permitting employees to leave the premises; and otherwise requiring on-duty/on-call rest periods. As such, Employee is informed and believes, and based thereon alleges, that Employee and other aggrieved employees are entitled to relief under, without limitation, Labor Code section 226.7. However, Employee is informed and believes that those premium payments under Labor Code section 226.7 were not made, either, for these non-compliant rest periods, either at all or at the proper regular rate of pay. Employer would thus be liable for civil penalties pursuant to Labor Code sections 558 and 2699 for both failing to authorize the taking of compliant rest periods, as well as for failing to provide premium pay under Labor Code section 226.7.

Employee is informed and believes, and based thereon alleges, that Employer maintains policies or practices of failing to permit Employee and other aggrieved employees from taking cooldown rest periods as required under California Code of Regulations, Title 8, Section 3395 and premium pay in lieu thereof under Labor Code section 226.7. As a result, Employer would be liable for civil penalties under Labor Code sections 558 and 2699.

In addition to the above, Employee is informed and believes, and based thereon alleges that Employer failed and continue to fail to keep adequate or accurate time records including wage statements and similar payroll documents under Labor Code section 226, documents signed to obtain or hold employment under Labor Code section 432, personnel records under Labor Code

section 1198.5, and time records under Labor Code section 1174, making it difficult for Employee and other aggrieved employees to calculate their unpaid wages and/or premium payments. Employer also failed to provide these documents to Employee and other aggrieved employees upon request. This would entitle Employee and other aggrieved employees to penalties prescribed by Labor Code sections 226 and 1198.5. Employer would also be liable for civil penalties pursuant to Labor Code sections 558, 1174.5 and 2699.

As a result of, among other things, Employer's herein-described policy or practice of failing to: accurately record time; failing to pay overtime and minimum wages; provide meal periods; provide rest periods; and provide compensation in lieu of meal or rest periods; as described above, Employee is informed and believes, and based thereon alleges, that Employer also intentionally failed and continues to fail to furnish aggrieved employees, including, without limitation, Employee, with itemized wage statements that accurately reflect: gross wages earned; total hours worked by the employee; net wages earned; all deductions; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee; the legal name and address of the other; and other such information as required by Labor Code section 226, subdivision (a). Specifically, Employer intentionally failed to furnish employees with itemized wage statements that accurately reflect the hours worked by Employee and other aggrieved employees and the rates of pay at which they were or should have been paid (including due to failure to pay at the proper regular rate), thus resulting in a failure to reflect gross and net wages earned and paid at each rate, as well. Consequently, since Employer would have failed to comply with Labor Code section 226, subdivision (a), Employee and other aggrieved employees would be entitled to recover penalties under, without limitation, Labor Code section 226, subdivision (e). Employer would also be liable for civil penalties pursuant to Labor Code sections 226.3, 558, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer also failed and refused, and continue to fail and refuse, to timely pay compensation to Employee and other terminated or resigned employees, including but not limited to, all overtime wages owed; all minimum wages owed; and all premium pay owed as set out above, including, without limitation, for failure to pay at the proper regular rate of pay, among other things. Consequently, Employer would be liable for waiting time penalties for having violated California Labor Code sections 201, 202, and 203. Employer would also be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges, that Employer has or had a policy or practice of unlawfully deducting wages by issuing in payment of wages due, or to become due, or as an advance on wages to be earned: an order, check, draft, note, memorandum, gift card, or other acknowledgement of indebtedness, (unless it was negotiable and payable in cash, on demand, without discount, at some established place of business in the state), the name and address of which must but did not appear on the instrument, and at the time of its issuance and for a reasonable time thereafter, which must be but was not at least 30 days, the maker or drawer did not have sufficient funds in, or credit, arrangement, or understanding with the drawee for its payment or any scrip, coupon, cards, or other thing redeemable, in merchandise or purporting to

be payable or redeemable otherwise than in money. Employee is further informed and believes, and based thereon alleges, that such wages were not compensated at the “regular rate” of compensation as provided under Labor Code sections 226.7 and 510, subsection (a). Consequently, Employee is informed and believes, and based thereon alleges, that Employee and other aggrieved employees are entitled to relief under, without limitation, Labor Code sections 212, 213, 226.7, and 510 subsection (a). Employer would thus be liable for civil penalties pursuant to Labor Code sections 558, 1197.1, and 2699.

Employee is further informed and believes, and based thereon alleges that Employer failed and refused, and continues to fail and refuse, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employee and other aggrieved employees with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employer, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employer under Labor Code section 2810.5. Employee is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employer to pay employees at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Employee is additionally informed and believes that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting. Among other relief, employees may collect from Employer in connection with these violations’ civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer also failed and refused, and continues to fail and refuse, to reimburse employees, including, without limitation, Employee and other aggrieved employees, with their costs incurred for driving personal vehicles (*i.e.*, mileage and gas), purchasing uniforms, providing uniform and other deposits, separately laundering mandatory uniforms, for the purchase of tools and safety equipment, and for the purchase and maintenance of cellular phones and cellular phone plans, in direct consequence of the discharge of their duties, or of their obedience to the directions of Employer, as required by Labor Code section 2802, and other statutory and common law offenses. As a result, Employer are liable to reimburse Employee and other aggrieved employees for these costs incurred in furtherance of work duties. In addition, Employer would be liable for civil penalties pursuant to Labor Code sections 558 and 2699.

Employee is further informed and believes, and based thereon alleges, that Employer has or had a policy or practice of failing to reimburse deposits made, including uniform deposits together with all interest owed at the separation of employment in violation of Labor Code section 404, entitling Employee and other aggrieved employees to damages in the amount of the deposit and accrued interest. Employer would also be liable for civil penalties under Labor Code sections 558 and 2699.

Employee is further informed and believes, and based thereon alleges, that Employer has or had a policy or practice of failing to provide Employee and other aggrieved employees with the amount of paid sick leave required to be provided pursuant to California and local laws (including, without limitation, Labor Code section 246, *et seq.* Employee is further informed and believes that the sick pay was not provided at the proper regular of pay as required under California law due to failure to properly calculate the regular rate. Employee is further informed and believes that Employer also did not permit its use upon request by Employee and other aggrieved employees as contemplated under California and local laws. Employee is additionally informed and believes that the notice requirement of Labor Code section 246 *et seq.* involves a mandatory payroll or workplace injury reporting. As such, Employer would be liable for civil penalties for violation of the paid sick leave regulations under Labor Code sections 558 and 2699, as well as equitable, injunctive, or restitutionary relief, and reasonable attorneys' fees and costs.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to pay aggrieved employees their paid time off and vacation time owed upon separation of employment as wages at their final rate of pay in violation of Labor Code section 227.3 and applicable Wage Orders. As such, Employer would be liable for civil penalties for violation of Labor Code section 227.3 under Labor Code section 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to pay aggrieved employees their wages in accordance with Labor Code Section 204, which requires that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive of any calendar month, shall be paid for between the 1st and 10th day of the following month." Employee is informed and believes and based thereon alleges that Employer did not and do not pay Employee and other aggrieved employees in accordance with Labor Code Section 204. As such, Employee is informed and believes, and based thereon alleges that Employer violated Labor Code section 204. Employer would be liable for civil penalties pursuant to Labor Code sections 210, 558 and 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy of failing to provide all temporary workers with owed wages weekly by not later than the regular payday of the following week. As a result, pursuant to Labor Code section 201.3, Employer would be liable for civil penalties pursuant to Labor Code sections 201.3.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to provide all working employees with suitable seats when the nature of the work reasonably permits the use of seats. Employee is further informed and believes, and based thereon alleges that Employer has failed to place an adequate number of seats in reasonable proximity to the work area and/or permitted employees to use such seats when it does not interfere with the performance of their duties when employees are not engaged in the active duties of their employment and the nature of their work requires standing.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from using or disclosing the skills, knowledge and experience they obtained at Employer for purposes of competing with Employer, including, without limitation, preventing Employees from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employer and under what circumstances that they might be receptive to an offer from a rival employer. As such, Employee is informed and believes that this violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employer would be liable for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from disclosing violations of state and federal law, either within Employer to their managers or outside Employer to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition, Employee is informed and believes that these policies and/or practices prevent Employee and/or other aggrieved employees from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code section 232 and 232.5. These violations of the Labor Code would expose Employer to liability for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of preventing Employee and/or other aggrieved employees from engaging in lawful conduct during non-work hours, thus violating state statutes entitling employees to disclose wages, working conditions, and illegal conduct, including, without limitation, Labor Code sections 96, subdivision (k), 98.6, 232, 232.5, and 1197.5, subdivision (k). Employee is informed and believes that this lawful conduct includes the exercise of Employee and/or other aggrieved employee's constitutional rights of freedom of speech and economic liberty and would thus expose Employer to liability for civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to furnish and use safety devices and safeguards. And adopt and use practices, means, methods, operations and processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of requiring or permitting employees to go or be in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403. Employee is informed and believes,

and based thereon alleges that these failures include, without limitation, failing to disinfect time clocks and other surfaces after use by Employee and/or other aggrieved employees; failing to provide adequate protection equipment to Employee and/or other aggrieved employees; and failing to provide adequate distance in working conditions between Employee and/or other aggrieved employees.

Employee is informed and believes, and based thereon alleges that Employer had and has a policy or practice of failing to give sufficient, adequate and proper notice to employees of the Covid-19 exposure within one business day of receiving notice of potential Covid-19 workplace exposure from a qualifying individual as required by Labor Code section 6409.6. Employee is informed and believes that numerous employees contracted Covid-19 during the relevant time periods, but that Employer failed to provide notice to employees. Employee is additionally informed and believes that Defendant does not or did not keep adequate records of written notifications required in subdivision (a) for a period of at least three years.

Specifically, Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of failing within one business day after Employer or a representative of Employer received a notice of potential exposure to COVID-19 to provide written notice to Employee and other aggrieved employees, or their exclusive representatives, who were on the premises at the same worksite as a qualifying individual who was within the infectious period that they may have been exposed to COVID-19. Furthermore, Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of failing within one business day after Employer or a representative of Employer received a notice of potential exposure to COVID-19 to provide Employee and other aggrieved employees who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as antiretaliation and antidiscrimination protections of the employee. Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code sections 6409.6 and 6432.

Additionally, Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of failing within one business day after Employer or a representative of Employer received a notice of potential exposure to COVID-19 to notify Employee and other aggrieved employees who were on the premises at the same worksite as the qualifying individual within the infectious period, and the employers of subcontracted employees who were on the premises at the same worksite as the qualifying individual within the infectious period and the exclusive representative, if any, of the cleaning and disinfection plan that the employer is implementing per the guidelines of the federal Centers for Disease Control and Prevention and the COVID-19 prevention program per the Cal-OSHA COVID-19 Emergency Temporary Standards. Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code sections 6409.6 and 6432.

Moreover, Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of failing to notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation, and worksite of employees who had a laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health; a positive COVID-19 diagnosis from a licensed health care provider; a COVID-19-related order to isolate provided by a public health official; or died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county. Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code sections 6409.6 and 6432.

Employee is informed and believes, and based thereon alleges that Employer violated section 1527, 3366, 3457 and 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each sex of employee.

Employee is further informed and believes, and based thereon alleges that Employer had and has a policy or practice of requiring, as a condition of employment, its applicants or employees to waive any right, forum, or procedure for a violation of any provision of the California Fair Employment and Housing Act or the Labor Code, including the right to file and pursue a civil action or a complaint with, or otherwise notify, any state agency, other public prosecutor, law enforcement agency, or any court or other governmental entity of any alleged violation, in violation of Labor Code section 432.6. Employee is additionally informed and believes that Employer knew that requiring such a condition was prohibited by law. Accordingly, for violations of Labor Code sections 432.5 and 432.6, Employee and aggrieved employees are entitled to attorneys' fees, an injunction, as well as civil penalties pursuant to Labor Code section 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of conducting unlawful background checks on prospective and current employees prior to making a conditional offer. Employee is informed and believes, and based thereon alleges, that Employer violated applicable laws by, without limitation: requiring job applicants and employees to disclose their conviction history before Employer made a conditional offer of employment; inquiring into or considering the conviction history of applicants before Employer made any conditional offers of employment; considering, distributing, or disseminating information about arrests not followed by conviction, referrals to or participation in a pretrial or posttrial diversion program, convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a full pardon or has been issued a certificate of rehabilitation, while conducting conviction history background checks in connection with any applications for employment; intending to deny an applicant a position of employment solely or in part because of the applicant's conviction history; and asking applicants for employment to disclose, through any written form or verbally, information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and

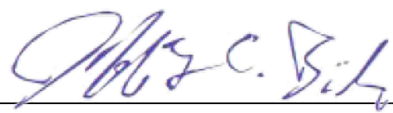
jurisdiction of the juvenile court, to the detriment of Employee and other aggrieved employees. As such, Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code section 432.7 and Government Code section 12952, entitling Employee and other aggrieved employees to damages. Employer would also be liable for civil penalties pursuant to Labor Code sections 432.7, 432.8, and 2699.

Employee is informed and believes, and based thereon alleges, that Employer had and has a practice or policy of relying on the salary history information of an applicant for employment as a factor in determining whether to offer employment to an applicant or what salary to offer the applicant in violation of Labor Code section 432.3 by including, on Employer's application for employment, an inquiry regarding current and/or former salary history information, including, without limitation, compensation and benefits of the applicant for employment. As such, Employee is informed and believes, and based thereon alleges, that Employer violated, without limitation, Labor Code section 432.3 entitling Employee and other aggrieved employees to damages. Employer would also be liable for civil penalties pursuant to Labor Code sections 432.3 and 2699.

Pursuant to Labor Code section 2699.3, subdivision (a)(2)(A), please advise within sixty-five (65) calendar days of the postmarked date of this notice whether the LWDA intends to investigate the violations alleged above. Our office understands that if we do not receive a response within sixty-five (65) calendar days of the postmark date of this PAGA Notice that the LWDA intends to investigate these allegations, Employee may immediately thereafter file a civil complaint against Employer to allege causes of action for civil penalties under the Private Attorney General Act for the herein-described alleged violations of the Labor Code.

Very truly yours,

BIBIYAN LAW GROUP, P.C.

  
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Jeffrey C. Bil

cc: Francesca Restaurant, LLC (via U.S. Certified Mail, Return Receipt Requested)  
Scott Harris Hospitality, LLC (via U.S. Certified Mail, Return Receipt Requested)