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

CLAIRE M. KRUPSAW, individually and as
representative of the State of California on
behalf of herself and all aggrieved employees,

Plaintiff,

v.

GRANDPA ALLEN'S FAMILY
RESTAURANT, INC. d/b/a Mama Kat's
Restaurant, a California corporation, and DOES
1 through 20, inclusive,

Defendants.

Case No. 25CU038615C

**PLAINTIFF CLAIRE M. KRUPSAW'S
INDIVIDUAL AND REPRESENTATIVE
ACTION COMPLAINT AGAINST
DEFENDANTS FOR:**

1. Failures To Authorize and Permit Rest Periods Under IWC Wage Order No. 5-2001, § 12(A) and To Pay Rest Period Premiums In Violation of California Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B);
2. Failures To Provide Meal Periods Under California Labor Code § 512(a) and IWC Wage Order No. 5-2001, § 11(A) and To Pay Meal Period Premiums In Violation of California Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B);
3. Failures To Pay Wages Due And Owing In Violation of California Labor Code §§ 204(a), 218.6, 510(a), 1194(a) and 1197 and IWC Wage Order No. 5-2001, §§ 3(A) and 4(B);
4. Failures To Furnish Accurate Itemized Wage Statements In Violation of California Labor Code § 226(a);
5. Failures To Timely Pay All Wages Due Upon Termination of Employment In Violation of California Labor Code §§ 201-203;
6. PAGA Penalties Under California Labor Code § 2698 et seq.

1 Plaintiff, CLAIRE M. KRUPSAW, individually and as representative of the State of
2 California on behalf of herself and all aggrieved employees of Defendant GRANDPA ALLEN'S
3 FAMILY RESTAURANT, INC. d/b/a MAMA KAT'S RESTAURANT, a California corporation
4 ("MKR"), brings this individual action as well as this representative action under the Private
5 Attorneys General Act of 2004 ("PAGA"), California Labor Code ("Labor Code") § 2698 et seq.,
6 against the Defendants, MKR and DOES 1 - 20, inclusive, for various violations of the Labor Code
7 and Industrial Welfare Commission ("IWC") Wage Order No. 5-2001. Plaintiff is informed and
8 believes, and on the basis of that information and belief alleges, as follows:

10 **NATURE OF THE ACTION**

11 1. As used herein, the term "aggrieved employees" is defined all California residents
12 who were employed by MKR as non-exempt, hourly rate employees in the State of California at any
13 time within the time period of one (1) year preceding the filing of this Complaint up to and through
14 the time of trial for this matter. Plaintiff alleges upon information and belief that there are at least
15 40 aggrieved employees, as defined herein.

16 2. Plaintiff alleges upon information and belief that her claims against MKR
17 (individually and as representative of the State of California on behalf of herself and all other
18 aggrieved employees) arise from the following unlawful employment practices:

19 (a) MKR's failures to ensure its tip-pooling practices complied with Labor Code § 351
20 and corresponding case law to the extent: [i] MKR regularly allowed owners, managers and
21 supervisors who were not part of the chain-of-service to MKR's customers to participate in and to
22 share some of the proceeds of the tipping pool (which constituted the sole property of Plaintiff and
23 other aggrieved employees to or for whom such tips were paid, given, or left); [ii] MKR regularly
24 failed to distribute Plaintiff's and other aggrieved employees' shares of the tip-pools in a fair and
25 reasonable manner; [iii] MKR regularly failed to pay out the tips earned by Plaintiff and other
26 aggrieved employees in a timely manner; and [iv] MKR regularly failed to keep accurate records of
27 all gratuities received;

1 (b) MKR’s effectively forcing Plaintiff and other aggrieved employees to waive the rest
2 periods they were entitled to take under Industrial Welfare Commission (“IWC”) Wage Order No.
3 5-2001, § 12(A) (i.e., 10-minute, duty-free, uninterrupted rest periods for every 4 hours worked or
4 major fraction thereof), partly by the timekeeping system’s prompting them to confirm their waivers
5 of their rest periods when they clock in at the beginnings of their shifts;

6 (c) MKR’s failures to pay Plaintiff and other aggrieved employees their legally requisite
7 rest period premiums, as required by Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, §
8 12(B);

9 (d) MKR’s failures to provide Plaintiff and other aggrieved employees with reasonably
10 opportunities to take their legally requisite meal periods under Labor Code § 512(a) and IWC Wage
11 Order No. 5-2001, § 11(A) when they worked in excess of 6 hours (such that any written meal
12 period waiver forms they executed were unenforceable);

13 (e) MKR’s failures to pay Plaintiff and other aggrieved employees their legally requisite
14 meal period premiums, as required by Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, §
15 11(B);

16 (f) MKR’s failures to pay Plaintiff and other aggrieved employees all wages due and
17 owing including rest and meal period premiums which constitute wages in accordance with the
18 California Supreme Court’s decision in *Naranjo v. Spectrum Security Services, Inc.* (2022) 13
19 Cal.5th 93, 117 as well as wages for all hours worked off-the-clock (particularly after they clocked
20 out at the ends of their scheduled shifts and then continued working while performing various tasks
21 -- such as taking out the trash and/or preparing silverware for customers’ use – with the knowledge
22 and consent of MKR’s owners and/or managers); and

23 (g) MKR’s failures to pay Plaintiff and other aggrieved employees who are no longer
24 employed by MKR all wages due upon termination of their employment in violation of Labor Code
25 §§ 201-203.

THE PARTIES

3. Plaintiff is an adult female who resides, and at all times relevant to this action has resided, in San Marcos, San Diego County, California.

4. Plaintiff alleges upon information and belief that MKR is, and at all times relevant to this action has been, a California corporation with its principal place of business located in San Marcos, San Diego County, California.

5. Plaintiff alleges upon information and belief that MKR is, and at all times relevant to this action has been, doing business as Mama Kat's Restaurant located at 950 W. San Marcos Blvd., San Marcos, California 92078.

6. Plaintiff alleges upon information and belief that, according to the California Secretary of State's website, MKR's registered agent for service of process in the State of California is Michael Robert Harrera, 2767 Surrey Lane, Escondido, California 92029.

7. Plaintiff alleges upon information and belief that, at all times relevant to this action, DOES 1 to 20, inclusive, were the agents and/or employees of one or more of the Defendants and in doing the things alleged in this Complaint were acting within the course and scope of that agency and/or employment.

8. Plaintiff does not know the true names and capacities, whether individual, corporate, associate or otherwise, of Defendants sued herein as DOES 1 to 20, inclusive, and therefore sues them by those fictitious names under California Code of Civil Procedure § 474. Plaintiff alleges upon information and belief that each defendant designated herein as a DOE defendant is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of each defendant designated herein as a DOE defendant when such identities become known.

1 **JURISDICTION AND VENUE**

2 9. The California Superior Court has jurisdiction in this matter due to Defendants'
3 aforementioned violations of California statutory law and/or related common law principles. There
4 is no federal question at issue in this action, as the issues herein are based solely on California
5 statutes and law.

6 10. The California Superior Court also has jurisdiction in this matter because both the
7 individual and aggregate monetary damages and restitution sought herein exceed the minimal
8 jurisdictional limits of the California Superior Court and will be established at trial, according to
9 proof.

10 11. This Court has personal jurisdiction over Defendants because they have transacted
11 business in the State of California such that they reasonably anticipated being subject to personal
12 jurisdiction before the courts of this State.

13 12. Pursuant to California Code of Civil Procedure § 395, venue is proper in this Court
14 because, among other reasons, each of the Defendants conducts business in and/or resides in San
15 Diego County, California, and a substantial part of the acts and omissions giving rise to the claims
16 alleged herein occurred in San Diego County, California.

17 **GENERAL ALLEGATIONS**

18 13. MKR employed Plaintiff as a non-exempt, hourly rate employee during the time
19 period of April 14, 2024, to July 7, 2025.

20 14. Plaintiff's last day of work for MKR was June 15, 2025. Thereafter, MKR's
21 ownership refused to schedule Plaintiff to work her normal shifts (despite her multiple requests) and
22 offered a small number of other shifts at the last-minute (which she was unable to work). Under
23 these working conditions, Plaintiff was effectively forced to resign her employment by MKR, and
24 she did so on July 7, 2025.

25 15. Plaintiff worked as a busser throughout her employment by MKR.
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1 16. Plaintiff worked on a part-time basis (e.g., two or three shifts per week) during most
2 of her employment by MKR and a full-time basis (e.g., four to six shifts per week) during the
3 remainder of her employment by MKR.

4 17. Plaintiff alleges upon information and belief that the aggrieved employees regularly
5 have worked on at least a part-time basis throughout their employment by MKR.

6 18. Plaintiff regularly worked in excess of 6 hours per shift throughout her employment
7 by MKR.

8 19. Plaintiff alleges upon information and belief that the aggrieved employees regularly
9 have worked in excess of 6 hours per shift throughout their employment by MKR.

10 20. Plaintiff earned an hourly wage of \$16.50 throughout her employment by MKR.

11 21. Plaintiff alleges upon information and belief that the aggrieved employees have
12 earned at least the applicable minimum hourly wage throughout their employment by MKR.

13 22. MKR paid Plaintiff on a bi-weekly basis throughout her employment by MKR.

14 23. Plaintiff alleges upon information and belief that MKR has paid the aggrieved
15 employees on a bi-weekly basis throughout their employment by MKR.

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18 **FIRST CAUSE OF ACTION**

19 **(BY PLAINTIFF AGAINST ALL DEFENDANTS FOR FAILURES TO AUTHORIZE AND**
20 **PERMIT REST PERIODS UNDER IWC WAGE ORDER NO. 5-2001, § 12(A) AND TO PAY**
21 **REST PERIOD PREMIUMS IN VIOLATION OF CALIFORNIA LABOR CODE § 226.7(c)**

22 **AND IWC WAGE ORDER NO. 5-2001, § 12(B))**

23 24. Plaintiff incorporates by reference paragraphs 1 - 23 of this Complaint as if fully set
24 forth herein.

25 25. IWC Wage Order No. 5-2001, § 12(A) provides:

26 Every employer shall authorize and permit all employees to take rest periods,
27 which insofar as practicable shall be in the middle of each work period. The

1 authorized rest period time shall be based on the total hours worked daily at the
2 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.
3 However, a rest period need not be authorized for employees whose total daily
4 work time is less than three and one-half (3 1/2) hours. Authorized rest period time
shall be counted, as hours worked, for which there shall be no deduction from
wages.

5 26. IWC Wage Order No. 5-2001, § 12(B) provides:

6 If an employer fails to provide an employee a rest period in accordance with the
7 applicable provisions of this Order, the employer shall pay the employee one (1)
8 hour of pay at the employee's regular rate of compensation for each work day that
the rest period is not provided.

9 27. Throughout Plaintiff's employment by MKR, MKR regularly failed to authorize and
10 permit her to take her legally requisite rest periods, and she was unable to take her legally requisite
11 rest periods, for one or more of the following reasons: (a) she was unable to take any rest periods;
12 (b) she was unable to take rest periods of at least 10 minutes for every 4 hours worked or major
13 fraction thereof (i.e., the rest periods were too short); (c) she was unable to take rest periods within
14 the first 4 hours worked (i.e., the rest periods were late); and/or (d) she was unable to take rest
15 periods that were duty-free (i.e., the rest periods were interrupted for work-related reasons).
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17 28. Plaintiff alleges upon information and belief that, throughout the aggrieved
18 employees' employment by MKR, MKR regularly failed to authorize and permit them to take their
19 legally requisite rest periods, and they were unable to take their legally requisite rest periods, for
20 one or more of the following reasons: (a) they were unable to take any rest periods; (b) they were
21 unable to take rest periods of at least 10 minutes for every 4 hours worked or major fraction thereof
22 (i.e., the rest periods were too short); (c) they were unable to take rest periods within the first 4
23 hours worked (i.e., the rest periods were late); and/or (d) they were unable to take rest periods that
24 were duty-free (i.e., the rest periods were interrupted for work-related reasons).
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1 29. Although Plaintiff regularly worked over 4 hour shifts, MKR regularly failed to
2 provide her with rest periods in accordance with the applicable provisions of IWC Wage Order No.
3 5-2001, § 12(A).

4 30. Plaintiff alleges upon information and belief that, although the aggrieved employees
5 regularly worked over 4 hour shifts, MKR regularly failed to provide them with rest periods in
6 accordance with the applicable provisions of IWC Wage Order No. 5-2001, § 12(A).

7 31. Throughout Plaintiff's employment by MKR, MKR regularly failed to pay her the
8 rest period premiums to which she was entitled under Labor Code § 226.7(c) and IWC Wage Order
9 No. 5-2001, § 12(B).

10 32. Plaintiff alleges upon information and belief that, throughout the aggrieved
11 employees' employment by MKR, MKR regularly failed to pay them the rest period premiums to
12 which they were entitled under Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B).

13 33. Pursuant to Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B),
14 Plaintiff is entitled to damages in an amount equal to one additional hour of pay at her regular rate
15 of compensation for each work day that the rest periods were not provided.

16 34. Plaintiff alleges upon information and belief that, pursuant to Labor Code § 226.7(c)
17 and IWC Wage Order No. 5-2001, § 12(B), the aggrieved employees are entitled to damages in an
18 amount equal to one additional hour of pay at their regular rate of compensation for each work day
19 that the rest periods were not provided.

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22 **SECOND CAUSE OF ACTION**

23 **(BY PLAINTIFF AGAINST ALL DEFENDANTS FOR FAILURES TO PROVIDE MEAL**
24 **PERIODS UNDER CALIFORNIA LABOR CODE § 512(A) AND IWC WAGE ORDER NO.**
25 **5-2001, § 11(A) AND TO PAY MEAL PERIOD PREMIUMS IN VIOLATION OF**
26 **CALIFORNIA LABOR CODE § 226.7(c) AND IWC WAGE ORDER NO. 5-2001, § 11(B))**
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35. Plaintiff incorporates by reference paragraphs 1 - 34 of this Complaint as if fully set forth herein.

36. Under Labor Code § 512(a) and IWC Wage Order No. 5-2001, § 11(A), an employer shall not employ an employee for a work period of more than 5 hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than 6 hours, the meal period may be waived by mutual consent of both the employer and employee.

37. IWC Wage Order No. 5-2001, § 11(A) further provides:

“Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.”

38. Under Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B), if an employer fails to provide an employee a meal period in accordance with the applicable provisions of IWC Wage Order No. 5-2001, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

39. Throughout Plaintiff's employment by MKR, she regularly worked shifts greater than 6 hours (such that any meal period waivers did not apply).

40. Plaintiff alleges upon information and belief that, throughout the aggrieved employees' employment by MKR, they regularly worked shifts greater than 6 hours (such that any meal period waivers did not apply).

41. Throughout Plaintiff's employment by MKR, MKR regularly failed to make the legally requisite meal periods available to her, and she was unable to take the legally requisite meal periods, for one or more of the following reasons: (a) she was unable to take any meal periods; (b)

1 she was unable to take meal periods of at least 30 minutes for every 5 hours worked (i.e., the meal
2 periods were too short); (c) she was unable to take meal periods within the first 5 hours worked (i.e.,
3 the meal periods were late); and/or (d) she was unable to take meal periods that were duty-free (i.e.,
4 the meal periods were interrupted for work-related reasons).

5 42. Plaintiff alleges upon information and belief that, throughout the aggrieved
6 employees' employment by MKR, MKR regularly failed to make the legally requisite meal periods
7 available to them, and they were unable to take the legally requisite meal periods, for one or more
8 of the following reasons: (a) they were unable to take any meal periods; (b) they were unable to take
9 meal periods of at least 30 minutes for every 5 hours worked (i.e., the meal periods were too short);
10 (c) they were unable to take meal periods within the first 5 hours worked (i.e., the meal periods
11 were late); and/or (d) they were unable to take meal periods that were duty-free (i.e., the meal
12 periods were interrupted for work-related reasons).

13 43. MKR effectively forced Plaintiff to waive the rest periods she was entitled to take
14 under IWC Wage Order No. 5-2001, § 12(A) (i.e., 10-minute, duty-free, uninterrupted rest periods
15 for every 4 hours worked or major fraction thereof), partly by the timekeeping system's prompting
16 her to confirm such waivers when she clocked in at the beginnings of her shifts. There was rarely,
17 if ever, a rational basis for Plaintiff to voluntarily waive her rest periods given that, under IWC
18 Wage Order No. 5-2001 § 12(A), rest periods constitute paid hours worked. Section 12(A) provides
19 in part, "Authorized rest period time shall be counted, as hours worked, for which there shall be no
20 deduction from wages."

21 44. Plaintiff alleges upon information and belief that: MKR effectively forced other
22 aggrieved employees to waive the rest periods they were entitled to take under IWC Wage Order
23 No. 5-2001, § 12(A), partly by the timekeeping system's prompting them to confirm such waivers
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1 when they clocked in at the beginnings of their shifts; and there was rarely, if ever, a rational basis
2 for other aggrieved employees to voluntarily waive their rest periods given that, under IWC Wage
3 Order No. 5-2001 § 12(A), rest periods constitute paid hours worked, as previously alleged.

4 45. Although Plaintiff regularly worked over 6 hour shifts, MKR regularly failed to
5 provide her with meal periods in accordance with the applicable provisions of IWC Wage Order
6 No. 5-2001, § 11(A).
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8 46. Plaintiff alleges upon information and belief that, although the aggrieved employees
9 regularly worked over 6 hour shifts, MKR regularly failed to provide them with meal periods in
10 accordance with the applicable provisions of IWC Wage Order No. 5-2001, § 11(A).
11

12 47. Throughout Plaintiff's employment by MKR, MKR regularly failed to pay her the
13 meal period premiums to which she was entitled under Labor Code § 226.7(c) and IWC Wage
14 Order No. 5-2001, § 11(B).

15 48. Plaintiff alleges upon information and belief that, throughout the aggrieved
16 employees' employment by MKR, MKR regularly failed to pay them the meal period premiums to
17 which they were entitled under Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B).

18 49. Pursuant to Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B),
19 Plaintiff is entitled to damages in an amount equal to one additional hour of pay at her regular rate
20 of compensation for each work day that the meal periods were not provided.
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22 50. Plaintiff alleges upon information and belief that, pursuant to Labor Code § 226.7(c)
23 and IWC Wage Order No. 5-2001, § 11(B), the aggrieved employees are entitled to damages in an
24 amount equal to one additional hour of pay at their regular rate of compensation for each work day
25 that the meal periods were not provided.
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THIRD CAUSE OF ACTION
(BY PLAINTIFF AGAINST ALL DEFENDANTS FOR FAILURE TO PAY WAGES DUE
AND OWING IN VIOLATION OF CALIFORNIA LABOR CODE §§ 204(A), 218.6, 510(A),
1194(A) AND 1197 AND IWC WAGE ORDER NO. 5-2001, §§ 3(A) AND 4(B))

51. Plaintiff incorporates by reference paragraphs 1 - 50 of this Complaint as if fully set forth herein.

52. Labor Code § 204(a) provides in part, “[a]ll wages, other than those mentioned in Section 201, 201.3, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.”

53. Labor Code § 218.6 provides: “In any action brought for the nonpayment of wages, the court shall award interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2.”

54. Labor Code § 510(a) and IWC Wage Order No. 5-2001, § 3(A) provide that an employer must compensate its employee’s work in excess of 8 hours in any workday, in excess of 40 hours in any workweek, and for the first 8 hours worked on the seventh consecutive day of work in a workweek, at a rate of no less than 1.5 times the employee’s regular rate of pay.

55. Labor Code § 510(a) and IWC Wage Order No. 5-2001, § 3(A) further provide that an employer must compensate its employee’s work in excess of 12 hours in any workday, and in excess of 8 hours worked on the seventh consecutive day of work in a workweek, at a rate of no less than 2 times the employee’s regular rate of pay.

56. Labor Code § 1194(a) provides in part that “any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

57. Labor Code § 1197 provides in part that “[t]he minimum wage for employees fixed

1 by the commission or by applicable state or local law, is the minimum wage to be paid to
2 employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

3 58. IWC Wage Order No. 5-2001, § 4(B) provides: “Every employer shall pay to each
4 employee, on the established payday for the period involved, not less than the applicable minimum
5 wage for all hours worked in the payroll period, whether the remuneration is measured by time,
6 piece, commission, or otherwise.”

7 59. Throughout Plaintiff’s employment by MKR, she regularly worked off-the-clock
8 including, *inter alia*, after she clocked out at the ends of her scheduled shifts and then continued
9 working while performing various tasks such as taking out the trash and/or preparing silverware for
10 customers’ use, as expected by MKR’s owners and/or managers.

11 60. Plaintiff alleges upon information and belief that, throughout the other aggrieved
12 employees’ employment by MKR, they regularly worked off-the-clock in one or more ways
13 substantially similar to the ways in which she worked off-the-clock.

14 61. Plaintiff alleges upon information and belief that, throughout Plaintiff’s and the
15 aggrieved employees’ employment by MKR, MKR knew and/or should have known that they
16 commonly, regularly and/or systematically worked off-the-clock as alleged herein.

17 62. Plaintiff alleges upon information and belief that all of the hours that Plaintiff and
18 the aggrieved employees worked for MKR during their employment with MKR (including the hours
19 worked off-the-clock as alleged herein) constituted “hours worked” as defined by IWC Wage Order
20 No. 5-2001, § 2(K), i.e., “the time during which an employee is subject to the control of an
21 employer, and includes all the time the employee is suffered or permitted to work, whether or not
22 required to do so[.]”

23 63. Plaintiff alleges upon information and belief that all of the hours that Plaintiff and
24 the aggrieved employees worked for MKR (including the hours worked off-the-clock as alleged
25 herein) were times during which they were subject to MKR’s control.

26 64. Plaintiff alleges upon information and belief that all of the hours that Plaintiff and
27 the aggrieved employees worked for MKR (including the hours worked off-the-clock as alleged

1 herein) were times they were permitted to work by MKR

2 65. Plaintiff alleges upon information and belief that, throughout Plaintiff's and the
3 aggrieved employees' employment by MKR, they occasionally worked 8 or more hours per day *not*
4 *including* their hours worked off-the-clock as alleged herein. Plaintiff further alleges upon
5 information and belief that, on those occasions, those off-the-clock hours constitute overtime hours.

6 66. Plaintiff alleges upon information and belief that, throughout Plaintiff's and the
7 aggrieved employees' employment by MKR, they occasionally worked overtime hours in excess of
8 40 hours per week *not including* their hours worked off-the-clock as alleged herein. Plaintiff further
9 alleges upon information and belief that, on those occasions, those off-the-clock hours constitute
10 overtime hours.

11 67. MKR failed to pay Plaintiff any wages (minimum wages, hourly wages or overtime
12 wages where appropriate) for her hours worked off-the-clock as alleged herein.

13 68. Plaintiff alleges upon information and belief that MKR failed to pay the aggrieved
14 employees any wages (minimum wages, hourly wages or overtime wages where appropriate) for
15 their hours worked off-the-clock as alleged herein.

16 69. Plaintiff alleges upon information and belief that, pursuant to Labor Code §§ 204(a),
17 218.6, 510(a), 1194(a) and 1197, Plaintiff and the aggrieved employees are entitled to recover
18 damages for the nonpayment of all wages due and owing to them for the hours worked off-the-clock
19 as alleged herein, plus interest thereon, reasonable attorney's fees and costs of suit.

20 **FOURTH CAUSE OF ACTION**

21 **(BY PLAINTIFF AGAINST ALL DEFENDANTS FOR FAILURE TO FURNISH**
22 **ACCURATE ITEMIZED WAGE STATEMENTS IN VIOLATION OF CALIFORNIA**
23 **LABOR CODE § 226(A))**

24 70. Plaintiff incorporates by reference paragraphs 1 - 69 of this Complaint as if fully set
25 forth herein.

26 71. Labor Code § 226(a) provides in part:
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1 “An employer, semimonthly or at the time of each payment of wages, shall
2 furnish to his or her employee, either as a detachable part of the check, draft, or
3 voucher paying the employee’s wage, or separately if wages are paid by personal
4 check or cash, an accurate itemized statement in writing showing (1) gross wages
5 earned, (2) total hours worked by the employee, except as provided in subdivision
6 (j), (3) the number of piece-rate units earned and any applicable piece rate if the
7 employee is paid on a piece-rate basis, (4) all deductions, provided that all
8 deductions made on written orders of the employee may be aggregated and shown
9 as one item, (5) net wages earned, (6) the inclusive dates of the period for which
10 the employee is paid, (7) the name of the employee and only the last four digits of
11 his or her social security number or an employee identification number other than
12 a social security number, (8) the name and address of the legal entity that is the
13 employer and, if the employer is a farm labor contractor, as defined in subdivision
14 (b) of Section 1682, the name and address of the legal entity that secured the
15 services of the employer, and (9) all applicable hourly rates in effect during the
16 pay period and the corresponding number of hours worked at each hourly rate by
17 the employee[.]”

11 72. IWC Wage Order No. 5-2001, § 7(A) provides in part:

12 “Every employer shall keep accurate information with respect to each employee
13 including the following: . . .

14 (3) Time records showing when the employee begins and ends each work period.
15 Meal periods, split shift intervals and total daily hours worked shall also be
16 recorded. . .

17 (4) Total wages paid each payroll period[.] . . .

18 (5) Total hours worked in the payroll period and applicable rates of pay. This
19 information shall be made readily available to the employee upon reasonable
20 request.

21 73. During Plaintiff’s employment by MKR, MKR regularly failed to timely provide her
22 with itemized written statements in accordance with Labor Code § 226(a) and IWC Wage Order
23 No. 5-2001, § 7.

24 74. Plaintiff alleges upon information and belief that, during the aggrieved employees’
25 employment by MKR, MKR regularly failed to timely provide them with itemized written
26 statements in accordance with Labor Code § 226(a) and IWC Wage Order No. 5-2001, § 7.

27 75. During Plaintiff’s employment by MKR, MKR knowingly and intentionally failed to
28 comply with the aforementioned requirements of Labor Code § 226(a) and IWC Wage Order No. 5-
2001, § 7 with regard to their wage statements.

76. Plaintiff alleges upon information and belief that, during the aggrieved employees' employment by MKR, MKR knowingly and intentionally failed to comply with the aforementioned requirements of Labor Code § 226(a) and IWC Wage Order No. 5-2001, § 7 with regard to their wage statements.

77. During Plaintiff's employment by MKR, MKR failed to provide her with accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) of Labor Code § 226.

78. Plaintiff alleges upon information and belief that, during the aggrieved employees' employment by MKR, MKR failed to provide them with accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) of Labor Code § 226.

79. During Plaintiff's employment by MKR, she could not promptly and easily determine from the wage statements alone, *inter alia*: the gross wages earned by her during the pay period; the net wages earned by her during the pay period; and the total hours worked by her.

80. Plaintiff alleges upon information and belief that, during the other aggrieved employees' employment by MKR, they could not promptly and easily determine from the wage statements alone, *inter alia*: the gross wages earned by them during the pay period; the net wages earned by them during the pay period; and the total hours worked by them.

81. Plaintiff has suffered injury as a result of MKR's knowing and intentional failures to comply with Labor Code § 226(a) and IWC Wage Order No. 5-2001, § 7.

82. Plaintiff alleges upon information and belief that the other aggrieved employees have suffered injury as a result of MKR's knowing and intentional failures to comply with Labor Code § 226(a) and IWC Wage Order No. 5-2001, § 7.

83. Plaintiff alleges upon information and belief that, pursuant to Labor Code § 226(e), Plaintiff and the other aggrieved employees suffered injury as a result of MKR's knowing and intentional failures to comply with Labor Code § 226(a) as alleged herein and, therefore, they are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in

1 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
2 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000).

3 84. Pursuant to Labor Code § 226(h), Plaintiff is entitled to injunctive relief to ensure
4 MKR's compliance with Labor Code § 226.

5 85. Plaintiff alleges upon information and belief that the other aggrieved employees are
6 entitled to injunctive relief to ensure MKR's compliance with Labor Code § 226.

7 86. Pursuant to Labor Code § 226(e) and (h), Plaintiff is entitled to an award of costs and
8 reasonable attorneys' fees.

9 87. Plaintiff alleges upon information and belief that, pursuant to Labor Code § 226(e)
10 and (h), the other aggrieved employees are entitled to an award of costs and reasonable attorneys'
11 fees.

12 **FIFTH CAUSE OF ACTION**

13 **(BY PLAINTIFF AGAINST ALL DEFENDANTS FOR FAILURE TO TIMELY PAY ALL**
14 **WAGES DUE UPON TERMINATION OF EMPLOYMENT IN VIOLATION OF**
15 **CALIFORNIA LABOR CODE §§ 201-203)**

16 88. Plaintiff incorporates by reference paragraphs 1 - 87 of this Complaint as if fully set
17 forth herein.

18 89. Under Labor Code § 201(a), if an employer discharges an employee, the wages
19 earned and unpaid at the time of discharge are due and payable immediately.

20 90. Under Labor Code § 202(a), if an employee not having a written contract for a
21 definite period quits his employment, his wages shall become due and payable not later than 72
22 hours thereafter.

23 91. Under Labor Code § 203(a), if an employer willfully fails to pay, without abatement
24 or reduction, in accordance with Labor Code § 201 any wages of an employee who is discharged or
25 in accordance with Labor Code § 202 any wages of an employee who quits, the wages of the
26 employee shall continue as a penalty from the due date thereof at the same rate until paid for a
27 period of up to 30 days from the time they were due.

92. Plaintiff was effectively forced to resign her employment by MKR on July 7, 2025, as previously alleged. Accordingly, Plaintiff's waiting time penalty will be fully accrued on August 9, 2025 (33 days after she was effectively forced to resign).

93. Plaintiff never had a written contract of employment with MKR for a definite period.

94. Plaintiff alleges upon information and belief that the aggrieved employees never had a written contract of employment with MKR for a definite period.

95. As of the date of the filing of this Complaint, MKR has willfully failed to pay Plaintiff the full amount of wages which were due and payable to her on the date MKR effectively terminated her employment.

96. Plaintiff alleges upon information and belief that, as of the date of the filing of this Complaint, MKR has willfully failed to pay the aggrieved employees who are no longer employed by MKR the full amount of wages which were due and payable to them on the dates MKR terminated their employments or within 72 hours of their resignations, and further willfully failed to pay those sums for up to 30 days thereafter.

97. Plaintiff alleges upon information and belief that MKR's willful failures to pay Plaintiff and the other aggrieved employees who are no longer employed by MKR as alleged herein violates Labor Code §§ 201-203 because MKR knew or should have known wages were due and owing to them but failed to pay them.

98. Plaintiff alleges upon information and belief that, as a result of MKR's willful failures to pay Plaintiff and the other aggrieved employees who are no longer employed by MKR as alleged herein, they are entitled to recovery under Labor Code § 203(a).

SIXTH CAUSE OF ACTION

(BY PLAINTIFF, AS REPRESENTATIVE OF THE STATE OF CALIFORNIA ON

BEHALF OF HERSELF AND ALL AGGRIEVED EMPLOYEES, AGAINST

ALL DEFENDANTS FOR PAGA PENALTIES UNDER

CALIFORNIA LABOR CODE § 2698 ET SEQ.

99. Plaintiff, as representative of the State of California on behalf of herself and all other

1 aggrieved employees, incorporates by reference paragraphs 1 - 98 of this Complaint as if fully set
2 forth herein.

3 100. Labor Code § 350 provides:

4 As used in this article, unless the context indicates otherwise:

5 (a) "Employer" means every person engaged in any business or enterprise in this
6 state that has one or more persons in service under any appointment, contract of
7 hire, or apprenticeship, express or implied, oral or written, irrespective of whether
8 the person is the owner of the business or is operating on a concessionaire or other
9 basis.

10 (b) "Employee" means every person, including minors and persons who are not
11 citizens or nationals of the United States, rendering actual service in any business
12 for an employer, whether gratuitously or for wages or pay, whether the wages or
13 pay are measured by the standard of time, piece, task, commission, or other
14 method of calculation, and whether the service is rendered on a commission,
15 concessionaire, or other basis.

16 (c) "Employing" includes hiring, or in any way contracting for, the services of an
17 employee.

18 (d) "Agent" means every person other than the employer having the authority to
19 hire or discharge any employee or supervise, direct, or control the acts of
20 employees.

21 (e) "Gratuity" includes any tip, gratuity, money, or part thereof that has been paid
22 or given to or left for an employee by a patron of a business over and above the
23 actual amount due the business for services rendered or for goods, food, drink, or
24 articles sold or served to the patron. Any amounts paid directly by a patron to a
25 dancer employed by an employer subject to Industrial Welfare Commission Order
26 No. 5 or 10 shall be deemed a gratuity.

27 (f) "Business" means any business establishment or enterprise, regardless of
28 where conducted.

101. Labor Code § 351 provides:

No employer or agent shall collect, take, or receive any gratuity or a part thereof
that is paid, given to, or left for an employee by a patron, or deduct any amount
from wages due an employee on account of a gratuity, or require an employee to
credit the amount, or any part thereof, of a gratuity against and as a part of the
wages due the employee from the employer. Every gratuity is hereby declared to
be the sole property of the employee or employees to whom it was paid, given, or
left for. An employer that permits patrons to pay gratuities by credit card shall pay

1 the employees the full amount of the gratuity that the patron indicated on the
2 credit card slip, without any deductions for any credit card payment processing
3 fees or costs that may be charged to the employer by the credit card company.
4 Payment of gratuities made by patrons using credit cards shall be made to the
employees not later than the next regular payday following the date the patron
authorized the credit card payment.

5 102. Labor Code § 353 provides:

6 Every employer shall keep accurate records of all gratuities received by him,
7 whether received directly from the employee or indirectly by means of deductions
8 from the wages of the employee or otherwise. Such records shall be open to
inspection at all reasonable hours by the department.

9 103. Labor Code § 354 provides:

10 Any employer who violates any provision of this article is guilty of a
11 misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000)
or by imprisonment for not exceeding 60 days, or both.

12 104. Throughout Plaintiff's employment by MKR, she earned gratuities as defined in
13 Labor Code § 350(e) via one or more tip-pooling arrangements.

14 105. Plaintiff alleges upon information and belief that, throughout the other aggrieved
15 employees' employment by MKR, they earned gratuities as defined in Labor Code § 350(e) via one
16 or more tip-pooling arrangements.

17 106. Plaintiff alleges upon information and belief that, throughout her and the other
18 aggrieved employees' employment by MKR, MKR's tip-pooling arrangements were unlawful under
19 the applicable Labor Code sections and corresponding case law in one or more of the following
20 respects: (a) MKR regularly allowed owners, managers and supervisors (i.e., employers as defined
21 in Labor Code § 350(a) and agents as defined in Labor Code § 350(d)) who were not part of the
22 chain-of-service to MKR's customers to share portions of Plaintiff's and the other aggrieved
23 employees' tips (which constituted the sole property of Plaintiff and the other aggrieved employees
24 to whom such tips were given); (b) MKR regularly failed to distribute Plaintiff's and the other
25 aggrieved employees' shares of the tip-pools in a fair and reasonable manner; (c) MKR regularly
26 failed to pay out the tips earned by Plaintiff and the other aggrieved employees in a timely manner;
27

1 and (d) MKR regularly failed to keep accurate records of all gratuities as required by Labor Code §
2 350(a).

3 107. Labor Code § 558(a) provides:

4 Any employer or other person acting on behalf of an employer who violates, or
5 causes to be violated, a section of this chapter [i.e., Labor Code §§ 500-558] or
6 any provision regulating hours and days of work in any order of the Industrial
7 Welfare Commission shall be subject to a civil penalty as follows:

8 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for
9 each pay period for which the employee was underpaid in addition to an amount
10 sufficient to recover underpaid wages.

11 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid
12 employee for each pay period for which the employee was underpaid in addition
13 to an amount sufficient to recover underpaid wages.

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

16 108. Labor Code § 2699 provides:

17 (a) Notwithstanding any other provision of law, any provision of this code that
18 provides for a civil penalty to be assessed and collected by the Labor and
19 Workforce Development Agency or any of its departments, divisions,
20 commissions, boards, agencies, or employees, for a violation of this code, may, as
21 an alternative, be recovered through a civil action brought by an aggrieved
22 employee on behalf of the employee and other current or former employees
23 against whom a violation of the same provision was committed pursuant to the
24 procedures specified in Section 2699.3.

25 (b) For purposes of this part, “person” has the same meaning as defined in Section
26 18.

27 (c) (1) For purposes of this part, “aggrieved employee” means any person who
28 was employed by the alleged violator and personally suffered each of the
violations alleged during the period prescribed under Section 340 of the Code of
Civil Procedure, except that for purposes of actions brought pursuant to paragraph
(2), “aggrieved employee” means any person who was employed by the alleged
violator against whom one or more of the alleged violations was committed
within the period prescribed under Section 340 of the Code of Civil Procedure.

(2) Notwithstanding paragraph (1), a nonprofit legal aid organization that has
obtained Section 501(c)(3) tax-exempt status, is a qualified legal services project
or qualified support center, as defined in Section 6213 of the Business and
Professions Code, and has served as counsel of record in civil actions under this
part for at least five years prior to January 1, 2025, may file a civil action pursuant
to this part as counsel of record for an aggrieved employee on behalf of the
employee and one or more current or former employees against whom one or

1 more of the alleged violations was committed. Nothing in this provision
2 establishes standing for the nonprofit legal aid organization as a party in the civil
3 action.

4 (d) (1) For purposes of subdivisions (c) and (f) of Section 2699.3, and except for
5 violations of subdivision (a) of Section 226, “cure” means that the employer
6 corrects the violation alleged by the aggrieved employee, is in compliance with
7 the underlying statutes specified in the notice required by this part, and each
8 aggrieved employee is made whole. An employee who is owed wages is made
9 whole when the employee has received an amount sufficient to recover any owed
10 unpaid wages due under the underlying statutes specified in the notice dating back
11 three years from the date of the notice, plus 7 percent interest, any liquidated
12 damages as required by statute, and reasonable lodestar attorney’s fees and costs
13 to be determined by the agency or the court. In case of a dispute over the amount
14 of unpaid wages due, nothing in this part prohibits an employer from curing the
15 alleged violations by paying amounts sufficient to cover any unpaid wages that
16 the agency or court determine could reasonably be owed to the aggrieved
17 employees based on the violations alleged in notice.

18 (2) (A) A violation of paragraph (8) of subdivision (a) of Section 226 shall be
19 considered cured only upon a showing that the employer has provided written
20 notice of the correct information to each aggrieved employee. Such notice may be
21 provided in summary form but shall identify correct information for each pay
22 period in which a violation occurred.

23 (B) A violation of paragraphs (1) to (7), inclusive, and (9) of subdivision (a) of
24 Section 226 shall be considered cured only upon a showing that the employer has
25 provided, at no cost to the employee, a fully compliant, itemized wage statement
26 or, if such information is customarily provided in digital form, reasonable access
27 to a digital or computer-generated record or records maintained in the ordinary
28 course of business containing the same information required on a fully compliant,
itemized wage statement, to each aggrieved employee for each pay period during
which the violation occurred during the three years prior to the date of the notice.
Nothing in this subdivision will impact any right the employee has to request
copies of employment records pursuant to Sections 226, 432, and 1198.5.

(e) (1) For purposes of this part, whenever the Labor and Workforce Development
Agency, or any of its departments, divisions, commissions, boards, agencies, or
employees, has discretion to assess a civil penalty or seek injunctive relief, a court
is authorized to exercise the same discretion, subject to the same limitations and
conditions, to assess a civil penalty and award injunctive relief.

(2) In any action by an aggrieved employee seeking recovery of a civil penalty
available under subdivision (a) or (f), a court may award a lesser amount than the
maximum civil penalty amount specified by this part, including the penalty
amounts in subdivisions (g) and (h), or may, notwithstanding the limitations set
forth in subdivisions (g) and (h) exceed the limitations set forth in those
subdivisions, if, based on the facts and circumstances of the particular case, to do
otherwise would result in an award that is unjust, arbitrary and oppressive, or

confiscatory.

(f) For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows:

(1) If, at the time of the alleged violation, the person does not employ one or more employees, the civil penalty is five hundred dollars (\$500).

(2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is as follows:

(A) One hundred dollars (\$100) for each aggrieved employee per pay period, except that:

(i) If, at the time of the alleged violation, the person employs one or more employees, and the alleged violation is a violation of paragraphs (1) to (7), inclusive, or paragraph (9) of subdivision (a) of Section 226, the only civil penalty applicable under this part is twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee could promptly and easily determine from the wage statement alone the accurate information specified by subdivision (a) of Section 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of Section 226, the civil penalty applicable under this part for the violation is twenty-five dollars (\$25) for each aggrieved employee per pay period if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer. This subdivision does not apply if the employer has failed to provide an itemized payroll statement during any of the pay periods at issue.

(ii) The civil penalty is fifty (\$50) for each aggrieved employee per pay period if the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods.

(B) The civil penalty is two hundred dollars (\$200) for each aggrieved employee per pay period if either of the following are met:

(i) Within the five years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful.

(ii) The court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or oppressive.

(3) If the alleged violation is a failure to act by the Labor and Workforce Development Agency, or any of its departments, divisions, commissions, boards, agencies, or employees, there shall be no civil penalty.

(g) (1) In any civil action under this part for an alleged violation of this code, if, prior to receiving the notice of violation required by Section 2699.3, or prior to receiving a request for records pursuant to Section 226, 432, or 1198.5 from the aggrieved employee or the employee's counsel, the person alleged to have committed the noticed violation has taken all reasonable steps to be in compliance with all provisions identified in the notice, the civil penalty that may be recovered in a civil action pursuant to this part shall not be more than 15 percent of the

1 penalty sought under subdivision (a) or (f).

2 (2) For purposes of paragraph (1), “all reasonable steps” may include, but are not
3 limited to, any of the following: conducted periodic payroll audits and took action
4 in response to the results of the audit, disseminated lawful written policies, trained
5 supervisors on applicable Labor Code and wage order compliance, or took
6 appropriate corrective action with regard to supervisors. Whether the employer’s
7 conduct was reasonable shall be evaluated by the totality of the circumstances and
8 take into consideration the size and resources available to the employer, and the
9 nature, severity and duration of the alleged violations. The existence of a
10 violation, despite the steps taken, is insufficient to establish that an employer
11 failed to take all reasonable steps.

12 (3) Paragraph (1) does not apply if the civil penalty recovered is recovered
13 pursuant to subparagraph (B) of paragraph (2) of subdivision (f).

14 (h) (1) In any civil action under this part for an alleged violation of this code, if
15 within 60 days after receiving the notice of violation required by Section 2699.3,
16 the person alleged to have committed the noticed violation has taken all
17 reasonable steps to prospectively be in compliance with all provisions identified
18 in the notice, the civil penalty that may be recovered in a civil action under this
19 part shall not be more than 30 percent of the penalty sought under subdivision (a)
20 or (f).

21 (2) For purposes of paragraph (1), “all reasonable steps” may include, but are not
22 limited to, taking an action to initiate any of the following: conduct an audit of the
23 alleged violations and take action in response to the results of the audit,
24 disseminate lawful written policies as to the alleged violations, train supervisors
25 on applicable Labor Code and wage order compliance, or take appropriate
26 corrective action with regard to supervisors. Whether the employer’s conduct was
27 reasonable shall be evaluated by the totality of the circumstances and take into
28 consideration the size and resources available to the employer, and the nature,
severity and duration of the alleged violations. The existence of a violation,
despite the steps taken, is insufficient to establish that an employer failed to take
all reasonable steps.

(3) Paragraph (1) does not apply if the civil penalty recovered is recovered
pursuant to subparagraph (B) of paragraph (2) of subdivision (f).

(i) An aggrieved employee shall not collect a civil penalty for any violation of
Sections 201, 202, 203, of the Labor Code, or for a violation of Section 204 that is
neither willful or intentional, or a violation of Section 226 that is neither knowing
or intentional nor a failure to provide a wage statement, that is in addition to the
civil penalty collected by that aggrieved employee for the underlying unpaid wage
violation. Nothing in this part or in paragraph (2) of subdivision (e) shall prevent
a court, in awarding a civil penalty, from reducing the penalty for any alleged
violation if the same conduct or omission resulted in multiple violations of this
code.

(j) An employer who satisfies subdivision (g) or (h) and cures a violation shall not

1 be required to pay a civil penalty for that violation. An employer who cures a
2 violation of subdivision (a) of Section 226 as set forth above shall not be required
3 to pay a civil penalty for that violation. Any other employer shall pay a civil
4 penalty of no more than fifteen dollars (\$15) per employee per pay period for the
statute of limitations set forth in Section 340 of the Code of Civil Procedure for
any violations that the employer cures.

5 (k) (1) Except as provided in paragraph (2), an aggrieved employee may recover
6 the civil penalty described in subdivision (f) and may be awarded injunctive relief
7 in a civil action pursuant to the procedures specified in Section 2699.3 filed on
8 behalf of the employee and other current or former employees against whom a
9 violation of the same provision was committed. Any employee who prevails in
10 any action shall be entitled to an award of reasonable attorney's fees and costs,
11 including any filing fee paid pursuant to subparagraph (B) of paragraph (1) of
subdivision (a) or subparagraph (B) of paragraph (1) of subdivision (c) of Section
2699.3. Nothing in this part shall operate to limit an employee's right to pursue or
recover other remedies available under state or federal law, either separately or
concurrently with an action taken under this part.

12 (2) No action shall be brought under this part for any violation of a posting,
13 notice, agency reporting, or filing requirement of this code, except if the filing or
reporting requirement involves mandatory payroll or workplace injury reporting.

14 (l) No action may be brought under this section by an aggrieved employee if the
15 agency or any of its departments, divisions, commissions, boards, agencies, or
16 employees, on the same facts and theories, cites a person within the timeframes
17 set forth in Section 2699.3 for a violation of the same section or sections of the
Labor Code under which the aggrieved employee is attempting to recover a civil
penalty on behalf of the employee or others or initiates a proceeding pursuant to
Section 98.3.

18 (m) Except as provided in subdivision (n), civil penalties recovered by aggrieved
19 employees shall be distributed as follows: 65 percent to the Labor and Workforce
20 Development Agency for enforcement of labor laws, including the administration
21 of this part, and for education of employers and employees about their rights and
22 responsibilities under this code, to be continuously appropriated to supplement
and not supplant the funding to the agency for those purposes; and 35 percent to
the aggrieved employees.

23 (n) Civil penalties recovered under paragraph (1) of subdivision (f) shall be
24 distributed to the Labor and Workforce Development Agency for enforcement of
25 labor laws, including the administration of this part, and for education of
26 employers and employees about their rights and responsibilities under this code,
to be continuously appropriated to supplement and not supplant the funding to the
agency for those purposes.

27 (o) For purposes of this section, the penalty recovered pursuant to this part shall

1 be reduced by one-half if the employees' regular pay period is weekly rather than
2 biweekly or semimonthly.

3 (p) The superior court may limit the evidence to be presented at trial or otherwise
4 limit the scope of any claim filed pursuant to this part to ensure that the claim can
be effectively tried.

5 (q) Nothing in this part shall prevent a court from consolidating or coordinating
6 civil actions filed pursuant to this part alleging legally or factually overlapping
violations against the same employer.

7 (r) Nothing contained in this part is intended to alter or otherwise affect the
8 exclusive remedy provided by the workers' compensation provisions of this code
9 for liability against an employer for the compensation for any injury to or death of
an employee arising out of and in the course of employment.

10 (s) (1) For cases filed on or after July 1, 2016, the aggrieved employee or
11 representative shall, within 10 days following commencement of a civil action
12 pursuant to this part, provide the Labor and Workforce Development Agency with
a file-stamped copy of the complaint that includes the case number assigned by
the court.

13 (2) The superior court shall review and approve any settlement of any civil action
14 filed pursuant to this part. The proposed settlement shall be submitted to the
agency at the same time that it is submitted to the court.

15 (3) A copy of the superior court's judgment in any civil action filed pursuant to
16 this part and any other order in that action that either provides for or denies an
award of civil penalties under this code shall be submitted to the agency within 10
days after entry of the judgment or order.

17 (4) Items required to be submitted to the Labor and Workforce Development
18 Agency under this subdivision or to the Division of Occupational Safety and
19 Health pursuant to paragraph (4) of subdivision (b) of Section 2699.3, shall be
transmitted online through the same system established for the filing of notices
and requests under subdivisions (a) and (c) of Section 2699.3.

20 (t) This section shall not apply to the recovery of administrative and civil
21 penalties in connection with the workers' compensation law as contained in
22 Division 1 (commencing with Section 50) and Division 4 (commencing with
Section 3200), including, but not limited to, Sections 129.5 and 132a.

23 (u) The agency or any of its departments, divisions, commissions, boards, or
24 agencies may promulgate regulations to implement the provisions of this part.

25 (v) (1) Except as provided in paragraph (2), the amendments made to this section
26 by the act adding this subdivision shall apply to a civil action brought on or after
June 19, 2024.

27 (2) The amendments made to this section by the act adding this subdivision shall

1 not apply to a civil action with respect to which the notice required by
2 subparagraph (A) of paragraph (1) of subdivision (a), paragraph (1) of subdivision
3 (b), or subparagraph (A) of paragraph (1) of subdivision (c) of Section 2699.3 was
filed before June 19, 2024.

4 109. Pursuant to Labor Code § 2699(a), Plaintiff, as representative of the State of
5 California on behalf of herself and all other aggrieved employees, seeks recovery of all applicable
6 civil penalties.

7 110. Pursuant to Labor Code § 2699(f)(2), Plaintiff, as representative of the State of
8 California on behalf of herself and all other aggrieved employees, seeks recovery of all applicable
9 civil penalties.

10 111. Pursuant to Labor Code § 2699(k)(1), Plaintiff seeks recovery of reasonable
11 attorney's fees and costs.

12 112. Labor Code § 2699.3(a) provides:

13 A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of
14 Section 2699 alleging a violation of any provision listed in Section 2699.5 shall
commence only after the following requirements have been met:

15 (1) (A) The aggrieved employee or representative shall give written notice by
16 online filing with the Labor and Workforce Development Agency and by certified
mail to the employer of the specific provisions of this code alleged to have been
violated, including the facts and theories to support the alleged violation.

17 (B) A notice filed with the Labor and Workforce Development Agency pursuant
18 to subparagraph (A) and any employer response to that notice shall be
19 accompanied by a filing fee of seventy-five dollars (\$75). The fees required by
this subparagraph are subject to waiver in accordance with the requirements of
Sections 68632 and 68633 of the Government Code.

20 (C) The fees paid pursuant to subparagraph (B) shall be paid into the Labor and
21 Workforce Development Fund and used for the purposes specified in subdivision
(n) of Section 2699.

22 (2) (A) The agency shall notify the employer and the aggrieved employee or
23 representative by certified mail that it does not intend to investigate the alleged
24 violation within 60 calendar days of the postmark date of the notice received
pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided
within 65 calendar days of the postmark date of the notice given pursuant to
paragraph (1), the aggrieved employee may commence a civil action pursuant to
Section 2699.

25 (B) If the agency intends to investigate the alleged violation, it shall notify the
26 employer and the aggrieved employee or representative by certified mail of its
27 decision within 65 calendar days of the postmark date of the notice received
pursuant to paragraph (1). Within 120 calendar days of that decision, the agency

1 may investigate the alleged violation and issue any appropriate citation. If the
2 agency determines that no citation will be issued, it shall notify the employer and
3 aggrieved employee of that decision within five business days thereof by certified
4 mail. Upon receipt of that notice or if no citation is issued by the agency within
5 the time limits prescribed by subparagraph (A) and this subparagraph or if the
6 agency fails to provide timely or any notification, the aggrieved employee may
7 commence a civil action pursuant to Section 2699.
(C) Notwithstanding any other provision of law, a plaintiff may as a matter of
right amend an existing complaint to add a cause of action arising under this part
at any time within 60 days of the time periods specified in this part.

113. In this representative action, Plaintiff, as representative of the State of California on
behalf of herself and all other aggrieved employees, alleges violations of certain provisions listed in
Section 2699.5 (e.g., Labor Code §§ 201, 202, 203, 204, 351 and 353). Accordingly, to that extent,
Labor Code § 2699.3(a) applies to this action.

114. Labor Code § 2699.3(b) provides in part: “A civil action by an aggrieved employee
pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision of Division 5
(commencing with Section 6300) other than those listed in Section 2699.5 shall commence only
after the following requirements have been met . . .”

115. In this representative action, Plaintiff, as representative of the State of California on
behalf of herself and all other aggrieved employees, does not allege any violation of any provision
of Division 5 (commencing with Section 6300). Accordingly, Labor Code § 2699.3(b) does not
apply to this action.

116. Labor Code § 2699.3(c) provides:

A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of
Section 2699 alleging a violation of any provision other than those listed in
Section 2699.5 or Division 5 (commencing with Section 6300) shall commence
only after the following requirements have been met:

(1) (A) The aggrieved employee or representative shall give written notice by
online filing with the Labor and Workforce Development Agency and by certified
mail to the employer of the specific provisions of this code alleged to have been
violated, including the facts and theories to support the alleged violation.

(B) A notice filed with the Labor and Workforce Development Agency pursuant
to subparagraph (A) and any employer response to that notice shall be
accompanied by a filing fee of seventy-five dollars (\$75). The fees required by
this subparagraph are subject to waiver in accordance with the requirements of
Sections 68632 and 68633 of the Government Code.

1 (C) The fees paid pursuant to subparagraph (B) shall be paid into the Labor and
2 Workforce Development Fund and used for the purposes specified in subdivision
(n) of Section 2699.

3 (D) If the employer is not eligible for the processes in paragraphs (2) or (3) or
4 chooses not to utilize those processes, the agency shall notify the employer and
5 the aggrieved employee or representative by certified mail that it does not intend
6 to investigate the alleged violation within 60 calendar days of the postmark date
7 of the notice received pursuant to paragraph (1). Upon receipt of that notice or if
no notice is provided within 65 calendar days of the postmark date of the notice
given pursuant to subparagraph (A), the aggrieved employee may commence a
civil action pursuant to Section 2699.

8 (E) If the agency intends to investigate the alleged violation, it shall notify the
9 employer and the aggrieved employee or representative by certified mail of its
10 decision within 65 calendar days of the postmark date of the notice received
11 pursuant to subparagraph (A). Within 120 calendar days of that decision, the
12 agency may investigate the alleged violation and issue any appropriate citation. If
13 the agency determines that no citation will be issued, it shall notify the employer
and aggrieved employee of that decision within five business days thereof by
certified mail. Upon receipt of that notice or if no citation is issued by the agency
within the time limits prescribed by subparagraph (D) and this subparagraph or if
the agency fails to provide timely or any notification, the aggrieved employee
may commence a civil action pursuant to Section 2699.

14 (2) (A) Within 33 days of receipt of the notice sent by the aggrieved employee or
15 representative, an employer that employed fewer than 100 employees in total
16 during the period covered by the notice may submit to the agency a confidential
proposal to cure one or more of the alleged violations. The employer shall specify
which of the alleged violations it proposes to cure.

17 (B) If the cure is facially sufficient or if a conference is necessary to determine if
18 a sufficient cure is possible, then within 14 days after receipt of the employer's
19 proposal, the agency may set a conference with the parties, to be conducted no
20 more than 30 days thereafter, to determine whether the proposed cure is sufficient,
21 what additional information may be necessary to evaluate the sufficiency of the
22 cure, and the deadline agreed upon by the parties for the employer to complete the
23 cure. If the cure includes the payment of unpaid wages, the agency shall also
24 determine at the conference whether to request the employer pay the proposed
25 cure amount, including any wages and liquidated damages due and 7 percent
26 interest, into escrow or shall provide such other form of security as the agency
deems suitable. Any such conference may be electronic, telephonic, or in person.
If the agency determines that the cure is not facially sufficient or does not act
upon the employer's cure proposal, the employee may proceed with a civil action
under this part after 65 calendar days from sending the notice required by this
subdivision, unless this time is extended by the agency, provided that such time
shall not be extended to more than 120 calendar days after notice is sent.
However, the employer shall be entitled to file a request for a stay and early
evaluation conference as set forth in subdivision (f).

27 (C) On or before the agreed upon deadline to cure, but no more than 45 days after

1 the conference, the employer shall complete the cure and provide a sworn
2 notification to the employee and agency that the cure is completed, accompanied
3 by a payroll audit and check register if the violation involves a payment
4 obligation. This notification shall also include any information the parties deemed
5 necessary to determine the sufficiency of the cure. The agency shall verify
6 whether the cure is complete within 20 days of receiving the employer's
7 notification. If the agency review procedure under this section extends beyond the
8 65-day period set forth in this section, the statute of limitation on the alleged
9 violations shall remain tolled until that procedure has been completed.

10 (D) If the agency preliminarily determines that the alleged violation has been
11 cured, it shall notify the aggrieved employee and, if requested by the aggrieved
12 employee, shall set a hearing within 30 days of such determination. The agency
13 shall issue an order no more than 20 days after the hearing providing a
14 determination whether the cure is adequate and the reasons for its determination.
15 If the agency determines that the alleged violation has been cured, the aggrieved
16 employee may not proceed with a civil action. If the aggrieved employee
17 disagrees with the cure determination, the aggrieved employee may appeal that
18 determination to the superior court. Any amounts paid by the employer to the
19 aggrieved employees exclusive of penalties under this section to cure the alleged
20 violation shall be offset against any judgment later entered with respect to that
21 violation, if the superior court concludes the agency abused its discretion in
22 finding that the employer's cure was adequate.

23 (E) No cure or proposal to cure pursuant to this paragraph may be deemed an
24 admission of liability by the employer that submitted the proposed cure. Any cure
25 proposal shall be deemed a confidential settlement proposal subject to Section
26 1152 of the Evidence Code.

27 (F) Nothing in this paragraph prohibits an employer from independently
28 remedying any violations or prevents the parties from agreeing to their own
mediation process.

(3) If the only alleged violation the employer seeks to cure is a violation of
Section 226, the following procedure shall apply:

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

(B) If the aggrieved employee disputes that the alleged violation of Section 226
has been cured, the aggrieved employee or representative shall provide written
notice by online filing with the agency and by certified mail to the employer,
including specified grounds to support that dispute, to the employer and the
agency. Within 17 calendar days of the receipt of that notice, the agency shall
review the actions taken by the employer to cure the alleged violation, and
provide written notice of its decision by certified mail to the aggrieved employee

1 and the employer. The agency may grant the employer three additional business
2 days to cure the alleged violation. If the agency determines that the alleged
3 violation has not been cured or if the agency fails to provide timely or any
4 notification, the employee may proceed with the civil action pursuant to Section
5 2699. If the agency determines that the alleged violation has been cured, but the
6 employee still disagrees, the employee may appeal that determination to the
7 superior court.

8
9 117. In this representative action, Plaintiff, as representative of the State of California on
10 behalf of herself and all other aggrieved employees, alleges violations of certain provisions not
11 listed in Section 2699.5 or Division 5 (commencing with Section 6300) (e.g., Labor Code §§ 226,
12 226.7, 510, 512, 1194 and 1197). Accordingly, to that extent, Labor Code § 2699.3(c) applies to
13 this action.

14 118. Contemporaneous with the filing of this Complaint and in accordance with Labor
15 Code § 2699.3, subds. (a)(1) and (c)(1), Plaintiff's counsel gave written notice by online filing with
16 the LWDA as well as by certified mail to the LWDA and Defendants of the specific provisions of
17 the Labor Code alleged to have been violated, including the facts and theories to support the alleged
18 violations. True and correct copies of such notices are attached hereto as **Group Exhibit 1** and
19 incorporated herein by reference.

20 119. Labor Code § 2699.3(a)(2)(A) provides: "The agency shall notify the employer and
21 the aggrieved employee or representative by certified mail that it does not intend to investigate the
22 alleged violation within 60 calendar days of the postmark date of the notice received pursuant to
23 paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the
24 postmark date of the notice given pursuant to paragraph (1), the aggrieved employee may
25 commence a civil action pursuant to Section 2699."

26 120. Labor Code § 2699.3(c)(1)(D) provides: "If the employer is not eligible for the
27 processes in paragraphs (2) or (3) or chooses not to utilize those processes, the agency shall notify
28 the employer and the aggrieved employee or representative by certified mail that it does not intend
to investigate the alleged violation within 60 calendar days of the postmark date of the notice
received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 65

1 calendar days of the postmark date of the notice given pursuant to subparagraph (A), the aggrieved
2 employee may commence a civil action pursuant to Section 2699.”

3 121. After receiving notification from the LWDA that it does not intend to investigate the
4 alleged violations, or after 65 days of the postmark date of giving notice to the LWDA if no
5 response has been received from the LWDA, Plaintiff will amend this Complaint (or, if necessary,
6 seek leave to amend this Complaint) to allege exhaustion of the notice requirements and
7 administrative remedies as required by Labor Code § 2699, standing and capacity to sue as a
8 representative of the State of California.

9 122. Plaintiff is entitled to recover, as representative of the State of California on behalf of
10 herself and all other aggrieved employees, the maximum civil penalties permitted by the PAGA,
11 Labor Code § 2698 et seq., for Defendants’ failures: (a) to authorize and permit rest periods under
12 IWC Wage Order No. 5-2001, § 12(A) and to pay rest period premiums in violation of Labor Code
13 § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B); (b) to provide meal periods under Labor
14 Code § 512(a) and IWC Wage Order No. 5-2001, § 11(a) and to pay meal period premiums in
15 violation of Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B); (c) to pay all wages
16 due and owing in violation of Labor Code §§ 204(a), 218.6, 510(a), 1194(a) and 1197 and IWC
17 Wage Order No. 5-2001, §§ 3 (A) and 4(B); and (d); (d) to timely pay all wages due upon
18 termination of employment in violation of Labor Code §§ 201-203; and (e) to administer its tip-
19 pooling practices in accordance with Labor Code §§ 351 and 353.

20 123. Plaintiff, as representative of the State of California on behalf of herself and all other
21 aggrieved employees, is entitled to recover any and all penalties for each and every violation of the
22 Labor Code in an amount according to proof, as to those penalties that are otherwise only available
23 in public agency enforcement actions. By this Cause of Action, Plaintiff, as representative of the
24 State of California on behalf of herself and all other aggrieved employees, seeks to recover any and
25 all such penalties.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, individually and as representative of the State of California on
3 behalf of herself and all other aggrieved employees, requests the following relief:

4 A. As to the First Cause of Action, Plaintiff requests that the Court enter an Order
5 against all Defendants for: (a) all compensatory damages which Plaintiff is entitled to recover for
6 Defendants' failures to authorize and permit rest periods under IWC Wage Order No. 5-2001, §
7 12(A) and to pay rest period premiums in violation of Labor Code § 226.7(c) and IWC Wage Order
8 No. 5-2001, § 12(B); and (b) any other and further relief the Court considers proper;

9 B. As to the Second Cause of Action, Plaintiff requests that the Court enter an Order
10 against all Defendants for: (a) all compensatory damages which Plaintiff is entitled to recover for
11 Defendants' failures to provide meal periods under Labor Code § 512(a) and IWC Wage Order No.
12 5-2001, § 11(A) and to pay meal period premiums in violation of Labor Code § 226.7(c) and IWC
13 Wage Order No. 5-2001, § 11(B); and (b) any other and further relief the Court considers proper;

14 C. As to the Third Cause of Action, Plaintiff requests that the Court enter an Order
15 against all Defendants for: (a) all wages which Plaintiff is entitled to recover under Labor Code §§
16 204(a), 218.6, 510(a), 1194(a) and 1197 and IWC Wage Order No. 5-2001, §§ 3(A) and 4(B)
17 according to proof, plus interest thereon; (b) reasonable attorney's fees and costs; and (c) any other
18 and further relief the Court considers proper;

19 D. As to the Fourth Cause of Action, Plaintiff requests that the Court enter an Order
20 against all Defendants for: (a) all compensatory damages which Plaintiff is entitled to recover for
21 Defendants' failures to furnish accurate itemized wage statements under Labor Code § 226(a) and
22 IWC Wage Order No. 5-2001, § 7(A); (b) reasonable attorney's fees and costs; and (c) any other
23 and further relief the Court considers proper;

24 E. As to the Fifth Cause of Action, Plaintiff requests that the Court enter an Order
25 against all Defendants for: (a) all compensatory damages which Plaintiff is entitled to recover for
26 Defendants' failures to timely pay all wages due upon termination of Plaintiff's employment in
27 violation of Labor Code §§ 201-203; (b) reasonable attorney's fees and costs; and (c) any other and
28

1 further relief the Court considers proper;

2 F. As to the Sixth Cause of Action after Plaintiff amends this Complaint (or, if
3 necessary, seeks leave to amend this Complaint) to allege exhaustion of the administrative remedies
4 as required by Labor Code § 2699, Plaintiff, as representative of the State of California on behalf of
5 herself and all aggrieved employees, requests that the Court enter an Order against all Defendants
6 for: (a) the maximum civil penalties permitted by PAGA for Defendants' failures: [i] to authorize
7 and permit rest periods under IWC Wage Order No. 5-2001, § 12(A) and to pay rest period
8 premiums in violation of Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B); [ii] to
9 provide meal periods under Labor Code § 512(a) and IWC Wage Order No. 5-2001, § 11(a) and to
10 pay meal period premiums in violation of Labor Code § 226.7(c) and IWC Wage Order No. 5-2001,
11 § 11(B); [iii] to pay all wages due and owing in violation of Labor Code §§ 204(a), 218.6, 510(a),
12 1194(a) and 1197 and IWC Wage Order No. 5-2001, §§ 3 (A) and 4(B); and [iv] to furnish accurate
13 itemized wage statements in violation of Labor Code § 226(a); (b) reasonable attorney's fees and
14 costs; and (c) any other and further relief the Court considers proper.

15 **JURY DEMAND**

16 WHEREFORE, Plaintiff, individually and as representative of the State of California on
17 behalf of herself and all other aggrieved employees, demands trial by jury on all issues so triable as
18 a matter of right.

19 Dated: July 22, 2025

LAW OFFICES OF DANIEL V. SANTIAGO, P.C.

20 By:


21 Daniel V. Santiago, Esq.

GROUP EXHIBIT 1

Thank you for submission of your PAGA Case.

**noreply@salesforce.com on behalf of LWDA DO NOT
REPLY<lwdadonotreply@dir.ca.gov>**

dvs@dvslawoffices.com

7/22/2025

LWDA Case No. LWDA-CM-1113624-25

Law Firm : Law Offices of Daniel V. Santiago, P.C.

Plaintiff Name : Claire M. Krupsaw

Employer: Grandpa Allen's Family Restaurant, Inc. d/b/a Mama Kat's Restaurant

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

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

Please note that a PAGA Notice is not a complaint within the meaning of Division 5 (Labor Code §§6300 et seq.). To file a complaint about workplace safety and health hazards with Cal/OSHA, please visit: <https://www.dir.ca.gov/dosh/complaint.htm>

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Law Offices of Daniel V. Santiago, P.C.
355 South Grand Avenue, Suite 2450
Los Angeles, California 90071
Phone: (760) 652-9801
E-mail: dvs@dvslawoffices.com

July 22, 2025

VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

State of California Labor and Workforce Development Agency
Attention: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, California 94102

Grandpa Allen's Family Restaurant, Inc. d/b/a
Mama Kat's Restaurant
Attention: Michael Herrera (Registered Agent)
2767 Surrey Lane
Escondido, California 92029

Re: *Claire M. Krupsaw, individually and as representative of the State of California on behalf of herself and all aggrieved employees v. Grandpa Allen's Family Restaurant, Inc. d/b/a Mama Kat's Restaurant*
San Diego Superior Court, Case No. TBD
LWDA Case No. TBD

New PAGA Claim Notice

Dear Sir or Madam:

I represent Claire M. Krupsaw, a former employee of Grandpa Allen's Family Restaurant, Inc. d/b/a Mama Kat's Restaurant ("MKR"). Ms. Krupsaw has retained me to try to resolve her individual wage-and-hour claims against MKR as well as her representative action claims against MKR for civil penalties under the Private Attorneys General Act ("PAGA"), California Labor Code § 2698 et seq., on behalf of all aggrieved employees. As used herein, the term "aggrieved employees" is defined as all California residents who were employed by MKR as hourly rate employees in the State of California at any time within the time period of one (1) year preceding the filing of Ms. Krupsaw's Individual and Representative Action Complaint ("the Complaint") up to and through the date of the trial of this matter. Ms. Krupsaw estimates that there are at least 30 aggrieved employees, as defined.

In accordance with Labor Code § 2699.3, subds. (a)(1) and (c)(1), this correspondence provides written notice to the State of California Labor and Workforce Development Agency ("LWDA") and SBTC of, *inter alia*, the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Please note that,

in accordance with Labor Code § 2699.3, subds. (a)(1) and (c)(1), the information contained in this correspondence has been submitted to the LWDA via online filing with the LWDA.

I. SUMMARY OF MS. KRUPSAW'S CLAIMS

Ms. Krupsaw, as representative of the State of California on behalf of herself and all aggrieved employees, is prepared to prosecute claims for civil penalties under the PAGA, Labor Code § 2698 et seq., against MKR arising from various unlawful employment practices, as described below.

A. MKR's Unlawful Employment Practices

Ms. Krupsaw's claims arise from the following unlawful employment practices:

(a) MKR's failures to ensure its tip-pooling practices complied with Labor Code § 351 and corresponding case law to the extent: [i] MKR regularly allowed owners, managers and supervisors who were not part of the chain-of-service to MKR's customers to participate in and to share some of the proceeds of the tipping pool (which constituted the sole property of Plaintiff and other aggrieved employees to or for whom such tips were paid, given, or left); [ii] MKR regularly failed to distribute Ms. Krupsaw's and other aggrieved employees' shares of the tip-pools in a fair and reasonable manner; [iii] MKR regularly failed to pay out the tips earned by Ms. Krupsaw and other aggrieved employees in a timely manner; and [iv] MKR regularly failed to keep accurate records of all gratuities received.

(b) MKR's effectively forcing Ms. Krupsaw and other aggrieved employees to waive the rest periods they were entitled to take under Industrial Welfare Commission ("IWC") Wage Order No. 5-2001, § 12(A) (i.e., 10-minute, duty-free, uninterrupted rest periods for every 4 hours worked or major fraction thereof), partly by the timekeeping system's prompting them to confirm their waivers of their rest periods when they clock in at the beginnings of their shifts¹;

(c) MKR's failures to pay Ms. Krupsaw and other aggrieved employees their legally requisite rest period premiums, as required by Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B);

(d) MKR's failures to provide Ms. Krupsaw and other aggrieved employees with reasonably opportunities to take their legally requisite meal periods under Labor Code § 512(a) and IWC Wage Order No. 5-2001, § 11(A) when they worked in excess of 6 hours (such that any written meal period waiver forms they executed were unenforceable²);

¹ There was rarely, if ever, a rational basis for Claire or any other aggrieved employee to voluntarily waive their rest periods given that, under IWC Wage Order No. 5-2001 § 12(A), rest periods constitute paid hours worked. Section 12(A) provides in part, "Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages."

² We are informed that MKR very recently began requiring its employees to sign meal period waiver forms. In addition, MKR's periodic provision of meals to Claire and other aggrieved employees after their 6+ hour shifts does not cure its failure to provide *timely* meal periods.

(e) MKR's failures to pay Ms. Krupsaw and other aggrieved employees their legally requisite meal period premiums, as required by Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B);

(f) MKR's failures to pay Ms. Krupsaw and other aggrieved employees all wages due and owing including rest and meal period premiums which constitute wages in accordance with the California Supreme Court's decision in *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, 117 as well as wages for all hours worked off-the-clock (particularly after they clocked out at the ends of their scheduled shifts and then continued working while performing various tasks -- such as taking out the trash and/or preparing silverware for customers' use -- with the knowledge and consent of MKR's owners and/or managers); and

(g) MKR's failures to pay Ms. Krupsaw and other aggrieved employees who are no longer employed by MKR all wages due upon termination of their employment in violation of Labor Code §§ 201-203.

Please note that additional facts and legal authorities supporting Ms. Krupsaw's claims against MKR are set forth in the Complaint that is being filed in the San Diego Superior Court contemporaneously with the submission of this New PAGA Claim Notice. A copy of the Complaint is enclosed herein as **Exhibit 1** and incorporated herein by reference.

B. Ms. Krupsaw's Individual Claims

Ms. Krupsaw is prepared to prosecute the following claims arising from MKR's unlawful practices outlined above: (1) MKR's failures to authorize and permit rest periods under IWC Wage Order No. 5-2001, § 12(A) and to pay rest period premiums in violation of Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B); (2) MKR's failures to provide meal periods under Labor Code § 512(a) and IWC Wage Order No. 5-2001, § 11(A) and to pay meal period premiums in violation of Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B); (3) MKR's failures to pay wages due and owing in violation of Labor Code §§ 204(a), 218.6, 510(a), 1194(a) and 1197 and IWC Wage Order No. 5-2001, §§ 3(A) and 4(B); (4) MKR's failures to furnish accurate itemized wage statements in violation of Labor Code § 226(a); and (5) MKR's failures to timely pay all wages due upon termination of employment in violation of Labor Code §§ 201-203.

C. Ms. Krupsaw's PAGA Claims On Behalf Of All Aggrieved Employees

Ms. Krupsaw, as representative of the State of California on behalf of herself and all other aggrieved employees, is prepared to prosecute claims for civil penalties under the PAGA, Labor Code § 2698 et seq., arising from: (1) MKR's failures to authorize and permit rest periods under IWC Wage Order No. 5-2001, § 12(A) and to pay rest period premiums in violation of Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 12(B); (2) MKR's failures to provide meal periods under Labor Code § 512(a) and IWC Wage Order No. 5-2001, § 11(A) and to pay meal period premiums in violation of Labor Code § 226.7(c) and IWC Wage Order No. 5-2001, § 11(B); (3) MKR's failures to pay wages due and owing in violation of Labor Code §§ 204(a), 218.6, 510(a), 1194(a) and 1197 and IWC Wage Order No. 5-2001, §§ 3(A) and 4(B); (4) MKR's failures to furnish accurate itemized wage statements in violation of Labor Code § 226(a); (5) MKR's failures to timely pay all wages due upon termination of the employment of the Ms. Krupsaw and other aggrieved employees who are no longer employed by Defendants in violation of Labor Code §§

201-203; and (6) MKR's failures to ensure its tip-pooling practices complied with Labor Code § 351.

II. MS. KRUPSAW'S REPRESENTATIVE ACTION COMPLAINT

As discussed above, a copy of Ms. Krupsaw's Complaint that is being filed in the San Diego Superior Court contemporaneously with the submission of this New PAGA Claim Notice is enclosed herein as **Exhibit 1** and incorporated herein by reference.

Labor Code § 2699.3(a) provides in part:

(2)(A) The agency [i.e., LWDA] shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699.

In addition, Labor Code § 2699.3(c)(1) provides in part:

(D) If the employer is not eligible for the processes in paragraphs (2) or (3) or chooses not to utilize those processes, the agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to subparagraph (A), the aggrieved employee may commence a civil action pursuant to Section 2699.

(E) If the agency intends to investigate the alleged violation, it shall notify the employer and the aggrieved employee or representative by certified mail of its decision within 65 calendar days of the postmark date of the notice received pursuant to subparagraph (A). Within 120 calendar days of that decision, the agency may investigate the alleged violation and issue any appropriate citation. If the agency determines that no citation will be issued, it shall notify the employer and aggrieved employee of that decision within five business days thereof by certified mail. Upon receipt of that notice or if no citation is issued by the agency within the time limits prescribed by subparagraph (D) and this subparagraph or if the agency fails to provide timely or any notification, the aggrieved employee may commence a civil action pursuant to Section 2699.

Please be advised that, after receiving notification from the LWDA that it does not intend to investigate the alleged violations described in the enclosed Complaint, or after 65 days of the postmark date of giving notice to the LWDA if no response has been received from the LWDA, Ms. Krupsaw will have exhausted the administrative remedies as required by Labor Code § 2699 and, therefore, she will have standing and capacity to sue as a representative of the State of California on behalf of herself and all aggrieved employees. Thereafter, Ms. Krupsaw plans to file

(or, if necessary, seek leave to file) an Amended Complaint in the San Diego Superior Court and therein expressly allege exhaustion of the administrative remedies as required by Labor Code § 2699, standing and capacity to sue as a representative of the State of California on behalf of all aggrieved employees (herself included).

Thank you for your prompt attention to this matter.

LAW OFFICES OF DANIEL V. SANTIAGO, P.C.

By: 

Daniel V. Santiago, Esq.