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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ARLIN GARCIA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

BROTH RESTAURANT GROUP, LLC, a
California limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: **23STCV01240**

CLASS ACTION

**CLASS ACTION COMPLAINT FOR
DAMAGES FOR:**

**(1) VIOLATION OF LABOR CODE
SECTIONS 226.7 AND 512;**

**(2) VIOLATION OF LABOR CODE
SECTIONS 1194 and 510;**

**(3) VIOLATION OF LABOR CODE
SECTION 226;**

**(4) VIOLATION OF LABOR CODE
SECTIONS 201-204;**

**(5) BUSINESS AND PROFESSIONS
CODE SECTION 17200 *et seq.***

DEMAND FOR JURY TRIAL

1 Plaintiff Arlin Garcia (“Plaintiff”) hereby submits her Class Action Complaint for
2 Damages against Defendants Broth Restaurant Group, LLC, and DOES 1 through 50, inclusive
3 (collectively, “Defendants”), on behalf of herself and the Class of other similarly situated
4 current and former employees of Defendants for meal period and rest break wages, minimum
5 wages, and penalties as follows:

6 **INTRODUCTION**

7 1. This class action is brought pursuant to Labor Code §§ 201 to 204, 226, 226.7,
8 510, 512, 1194, Industrial Welfare Commission (“IWC”) Wage Order 5-2001 (codified as
9 California Code of Regulations Title 8 § 11050), and Business and Professions Code § 17200
10 *et seq.* (Unfair Competition Law (“UCL”)).

11 2. This Complaint challenges Defendants’ systemic illegal employment practices
12 resulting in violations of the stated provisions of the Labor Code and Business and Professions
13 Code against the identified class of employees.

14 3. Plaintiff is informed and believes and thereon alleges Defendants joint and
15 severally acted intentionally and with deliberate indifference and conscious disregard to the
16 rights of all employees in (1) failing to provide meal periods and rest breaks; (2) failing to pay
17 all minimum wages; (3) failing to provide accurate wage statements; and (4) failing to pay all
18 wages due and owing upon termination of employment.

19 **JURISDICTION AND VENUE**

20 4. This class action is brought pursuant to California Code of Civil Procedure §
21 382. The monetary damages sought by Plaintiff exceed the minimal jurisdictional limits of the
22 Superior Court and will be established according to proof at trial. The damages sought by
23 Plaintiff individually are less than \$75,000.00.

24 5. This Court has jurisdiction over this action pursuant to California Constitution,
25 Article VI, Section 10, which grants the Superior Court original jurisdiction in all causes
26 except those given by statute to other courts. The statutes under which this action is brought do
27 not specify any other basis for jurisdiction.

28 6. This Court has jurisdiction over the violations of Labor Code §§ 201 to 204,

1 226, 226.7, 510, 512, 1194, IWC Wage Order 5-2001, and the UCL.

2 7. This Court has jurisdiction over all Defendants because, upon information and
3 belief, each party has sufficient minimum contacts in California, or otherwise intentionally
4 avails itself of California law so as to render the exercise of jurisdiction over it by the
5 California courts consistent with traditional notions of fair play and substantial justice.

6 8. Venue is proper in this Court because, upon information and belief, the named
7 Defendants transact business and/or have offices in this county, and the acts and omissions
8 alleged herein took place in this county.

9 **PARTIES**

10 9. Plaintiff is an individual residing in the State of California. Plaintiff was
11 employed by Defendants within the statutory time period.

12 10. Plaintiff is informed and believes and thereon alleges that Defendant is a
13 corporation licensed to do business and actually doing business in the State of California,
14 including the County of Los Angeles.

15 11. Plaintiff does not know the true names or capacities, whether individual, partner
16 or corporate, of Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
17 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend
18 this complaint when the true names and capacities are known. Plaintiff is informed and
19 believes and thereon alleges that each of Defendants designated as a DOE was responsible in
20 some way for the matters alleged herein and proximately caused Plaintiff and members of the
21 general public and the Class to be subject to the illegal employment practices, wrongs and
22 injuries complained of herein.

23 12. At all times herein mentioned, Defendants, and each of them, were agents,
24 partners, joint venturers, representatives, servants, employees, successors-in-interest, co-
25 conspirators and assigns, each of the other, and at all times relevant hereto were acting within
26 the course and scope of their authority as such agents, partners, joint venturers, representatives,
27 servants, employees, successors, co-conspirators and assigns, and that all acts or omissions
28 alleged herein were duly committed with ratification, knowledge, permission, encouragement,

1 authorization and consent of each Defendant designated herein.

2 As such, and based upon all the facts and circumstances incident to Defendants'
3 business in California, Defendants are subject to Labor Code §§ 201 to 204, 226, 226.7, 510,
4 512, 1194, IWC Wage Order 5-2001, and the UCL.

5 **CLASS ACTION ALLEGATIONS**

6 **13. Definition:** Plaintiff seeks class certification pursuant to California Code of
7 Civil Procedure § 382 of a class of all non-exempt employees of Defendants who worked in
8 California during the period from July 25, 2018¹ to the present, including the following
9 Subclasses:

10 (a) **Meal Period Subclass:** all non-exempt employees of Defendants who
11 worked one or more shifts in excess of six (6) hours in California during
12 the period from July 25, 2018, to the present;

13 **As an alternative to Subclass (a):** all non-exempt employees of Defendants
14 who worked one or more shifts in excess of six (6) hours in California
15 without receiving a 30-minute break during which they were relieved of
16 all duties, during the period from July 25, 2018, to the present;

17 (b) **Rest Break Subclass:** all non-exempt employees of Defendants who
18 worked one or more shifts of three and one-half (3.5) hours or more in
19 California during the period from July 25, 2018, to the present;

20 **As an alternative to Subclass (b):** all non-exempt employees of Defendants
21 who worked one or more shifts of three and one-half (3.5) hours or more
22 in California without receiving all required paid 10-minute breaks during
23 which they were relieved of all duties, during the period July 25, 2018,
24 to the present;

25 (c) **Minimum Wage Subclass** all Defendants' non-exempt employees who
26

27 ¹ Pursuant to Emergency Rule 9 of the Judicial Council of California's emergency rules
28 related to the COVID-19 pandemic, "[n]otwithstanding any other law, the statutes of
limitations and repose for civil causes of action that exceed 180 days are tolled from April 6,
2020, until October 1, 2020."

worked in California and were not properly paid all minimum wages during the period from July 25, 2018 to the present;

(d) **Wage Statement Subclass:** all Defendants' non-exempt employees who worked in California and received an itemized wage statement during the period of July 25, 2019 to the present;

(e) **Terminated Employee Subclass:** all Defendants' non-exempt employees who worked in California and who were not properly paid all wages on termination or within 72 hours thereof during the period of July 25, 2019 to the present;

14. Numerosity: The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by objective, easily understood terms contained within the Class and Subclass definitions, and by review of Defendants' records, including payroll records.

15. Adequacy of Representation: Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready, willing and able to fully and adequately represent the Class and Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California courts.

16. Defendants administered a corporate policy, practice and/or procedure of (1) failing to pay all minimum wages; (2) failing to provide meal periods and rest breaks; (3) failing to provide accurate wage statements; (4) failing to timely pay all wages due and owing upon termination of employment; and (5) engaging in unfair business practices. Plaintiff alleges this corporate conduct is accomplished with the advance knowledge and designed intent to willfully withhold appropriate wages for work performed members of the Class.

17. Common Question of Law and Fact: There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning whether Defendants' policies and practices regularly denied Class Members minimum wages, meal periods and rest breaks, accurate wage statements, and wages upon

1 termination of employment.

2 **18. Typicality:** The claims of Plaintiff are typical of the claims of all members of
3 the Class. Plaintiff is a member of the Class and have suffered the alleged violations of Labor
4 Code §§ 201 to 204, 226, 226.7, 510, 512, 1194, IWC Wage Order 5-2001, and the UCL.
5 Plaintiff worked at least one shift in excess of six hours during which she was not provided all
6 duty-free, legally mandated meal periods. Plaintiff worked at least one shift of 3.5 hours or
7 greater during which she was not authorized and permitted all duty-free, legally mandated rest
8 breaks. Plaintiff worked at least one shift during which she was not paid for all hours worked.
9 Plaintiff received wage statements during her employment. Plaintiff's employment terminated
10 during the statutory period and Plaintiff was not timely paid all wages due and owing her upon
11 termination.

12 **19.** The Labor Code upon which Plaintiff bases her claims is broadly remedial in
13 nature. These laws and labor standards serve an important public interest in establishing
14 minimum working conditions and standards in California. These laws and labor standards
15 protect the average working employee from exploitation by employers who may seek to take
16 advantage of superior economic and bargaining power in setting onerous terms and conditions
17 of employment.

18 **20.** The nature of this action and the format of laws available to Plaintiff and
19 members of the Class identified herein make the class action format a particularly efficient and
20 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
21 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
22 advantage since it would be able to exploit and overwhelm the limited resources of each
23 individual plaintiff with their vastly superior financial and legal resources. Requiring each
24 Class Member to pursue an individual remedy would also discourage the assertion of lawful
25 claims by employees who would be disinclined to file an action against their former and/or
26 current employer for real and justifiable fear of retaliation and permanent damage to their
27 careers at subsequent employment.

28 **21.** The prosecution of separate actions by the individual Class Members, even if

possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class Members against the Defendants and which would establish potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to individual Class Members which would, as a practical matter, be dispositive of the interest of the other Class Members not parties to the adjudications or which would substantially impair or impede the ability of the Class Members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

22. Such a pattern, practice and administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for the unpaid balance of the full amount of minimum wages, vested vacation wages, meal period and rest break premiums, and penalties, including interest thereon, attorneys' fees and costs of suit, as well as consequential damages.

23. Proof of a common business practice or factual pattern, which Plaintiff experienced and is representative of, will establish the right of each Class Member to recovery on the causes of action alleged herein.

24. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. This action is brought for the benefit of the entirety of all Class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE SECTION 226.7

REGARDING MEAL PERIOD AND REST BREAK WAGES

(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF THE CLASS AND SUBCLASSES (a), (b), (d), and (e))

25. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 24 as though fully set forth herein.

26. In accordance with the mandates of the California Labor Code and the

1 applicable IWC Wage Order, Plaintiff and the Class and Subclasses (a), (b), (d), and (e) had
2 the right to take a 10-minute rest break for every four (4) hours worked or major fraction
3 thereof, and a 30-minute meal period for every five (5) hours worked.

4 **27.** As a pattern and practice, Defendants regularly did not provide employees with
5 all their meal periods and rest breaks and did not provide proper compensation for this failure.

6 **28.** Defendants' policy of failing to provide Plaintiff and the Class and Subclasses
7 (a), (b), (d), and (e) with all legally-mandated meal periods and rest breaks is a violation of
8 California law.

9 **29.** Defendants willfully failed to pay employees whom they did provide the
10 opportunity to take meal periods and rest breaks the premium compensation set out in Labor
11 Code § 226.7 and the applicable IWC Wage Order, and Plaintiff and the Class and Subclasses
12 (a), (b), (d), and (e) are owed wages for meal period and rest break premiums as set forth
13 above.

14 **30.** Such a pattern, practice and administration of corporate policy as described
15 herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class and
16 Subclasses (a), (b), (d), and (e) identified herein, in a civil action, for the balance of the unpaid
17 premium compensation pursuant to Labor Code § 226.7 and the applicable IWC Wage Order,
18 including interest, attorneys' fees, and costs of suit.

19 **SECOND CAUSE OF ACTION**

20 **VIOLATION OF LABOR CODE SECTION 1194**

21 **REGARDING MINIMUM WAGES**

22 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF THE CLASS AND**
23 **SUBCLASSES (c), (d), and (e))**

24 **31.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 30 as
25 though fully set forth herein.

26 **32.** At all times relevant herein, Defendants were required to compensate their non-
27 exempt employees' minimum wages for all hours worked.

28 **33.** As a pattern and practice, Defendants regularly failed to compensate its

1 employees for all hours worked, resulting in a failure to pay all minimum wages.

2 **34.** This resulted in Plaintiff and the Class and Subclasses (c), (d), and (e) receiving
3 total wages in an amount less than minimum wage.

4 **35.** Such a pattern, practice and administration of corporate policy regarding illegal
5 employee compensation as described herein is unlawful and creates an entitlement to recovery
6 by Plaintiff and the Class and Subclasses (c), (d), and (e) in a civil action, for the unpaid
7 balance of the full amount of minimum wages owing, including liquidated damages, interest,
8 attorneys' fees, and costs of suit according to the mandate of California Labor Code § 1194.

9 **THIRD CAUSE OF ACTION**

10 **REGARDING RECORD KEEPING**

11 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF**
12 **THE CLASS AND ALL SUBCLASSES)**

13 **36.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 35 as
14 though fully set forth herein.

15 **37.** At all times relevant herein, Defendants were required to maintain accurate
16 records pursuant to the mandate of Labor Code § 226.

17 **38.** In violation of Labor Code § 226, Defendants failed in their affirmative
18 obligation to keep *accurate* records for their California employees. For example, as a result of
19 Defendants' various Labor Code violations, Defendants failed to keep accurate records of
20 Plaintiff and the Class and all Subclasses' gross wages earned, total hours worked, net wages
21 earned, and all applicable hourly rates and the number of hours worked at each hourly rate.
22 Plaintiff received at least one such wage statement during her employment with Defendants.

23 **39.** Such a pattern, practice and uniform administration of corporate policy as
24 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the
25 Class and all Subclasses identified herein, in a civil action, for all damages and/or penalties
26 pursuant to Labor Code § 226, including interest thereon, penalties, reasonable attorneys' fees,
27 and costs of suit.
28

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE SECTIONS 201 to 204**

3 **REGARDING WAITING TIME PENALTIES**

4 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF**

5 **THE CLASS AND ALL SUBCLASSES)**

6 **40.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 39 as
7 though fully set for herein.

8 **41.** At all times relevant herein, Defendants were required to pay their employees
9 all wages owed in a timely fashion at the end of employment pursuant to California Labor
10 Code §§ 201 to 204.

11 **42.** As a result of Defendants' alleged Labor Code violations alleged above,
12 Defendants regularly failed to pay Plaintiff and the Class and all Subclasses their final wages
13 pursuant to Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to
14 Labor Code § 203.

15 **43.** The conduct of Defendants and their agents and employees as described herein
16 was willfully done in violation of Plaintiff and the Class and all Subclasses' rights, and done by
17 managerial employees of Defendants.

18 **44.** Defendants' willful failure to provide Plaintiff and the Class and all Subclasses
19 the wages due and owing them upon separation from employment results in a continuation of
20 wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and Class
21 Members who have separated from employment are entitled to compensation pursuant to
22 Labor Code § 203.

23 **FIFTH CAUSE OF ACTION**

24 **FOR VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200 *et seq.***

25 **(AGAINST ALL DEFENDANTS BY PLAINTIFF ON BEHALF OF**

26 **THE CLASS AND ALL SUBCLASSES)**

27 **45.** Plaintiff re-alleges and incorporates by reference paragraphs 1 through 44 as
28 though fully set for herein.

46. Defendants, and each of them, have engaged and continue to engage in unfair and unlawful business practices in California by practicing, employing and utilizing the employment practices outlined above, inclusive, to wit, by knowingly denying employees: (1) all minimum wages, (2) all meal period and rest break wages, (3) accurate wage statements, and (4) all wages due and owing upon termination of employment.

47. Defendants' utilization of such business practices constitutes unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

48. The acts complained of herein occurred within the last four years preceding the filing of the complaint in this action.

49. Defendants have engaged in unlawful, deceptive and unfair business practices, as proscribed by California Business and Professions Code § 17200 *et seq.*, including those set forth above, thereby depriving Plaintiff and the Class and Subclasses the minimum working condition standards and conditions due to them under the California laws and IWC Wage Orders as specifically described therein.

50. Plaintiff seeks, on her own behalf, and on behalf of other members of the Class and Subclasses who are similarly situated, full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class as described herein;
3. For an order appointing counsel for Plaintiff as counsel for the Class;
4. Upon the First Cause of Action, for all meal period and rest break wages owed, and for costs;
5. Upon the Second Cause of Action, for all minimum wages owed, and for costs

1 and attorney's fees;

2 6. Upon the Third Cause of Action, for damages or penalties pursuant to statute as
3 set forth in California Labor Code § 226, and for costs and attorneys' fees;

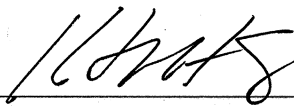
4 7. Upon the Fourth Cause of Action, for all minimum wages owed, for waiting
5 time wages according to proof pursuant to California Labor Code §203;

6 8. Upon the Fifth Cause of Action, for restitution to Plaintiff and other similarly
7 affected members of the general public of all funds unlawfully acquired by
8 Defendants by means of any acts or practices declared by this Court to be in
9 violation of Business and Professions Code § 17200 *et seq.*; and

10 9. On all causes of action for attorneys' fees, interest, and costs as provided by
11 California Labor Code §§ 218.5, 218.6, 226, 1194, and Code of Civil Procedure
12 § 1021.5, and for such other and further relief the Court may deem just and
13 proper.

14
15 Dated: January 19, 2023

YOON LAW, APC

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18 Kenneth H. Yoon
Attorneys for Plaintiff Arlin Garcia

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20 **DEMAND FOR JURY TRIAL**

21 Plaintiff, for herself and the Class and Subclasses, hereby demands a jury trial as
22 provided by California law.

23
24 Dated: January 19, 2023

YOON LAW, APC

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27 Kenneth H. Yoon
Attorneys for Plaintiff Arlin Garcia
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