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JASMIN JIMENEZ on behalf of herself
and all similarly aggrieved employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

JASMIN JIMENEZ, on behalf of herself
and all similarly aggrieved employees,

Plaintiff,

v.

SEA HOUSE SALINAS, LLC; OMAR
CAMPOS; SHAN BAO GUO; BAG
O'CRAB, INC.; SEA HOUSE SL LLC;
BAG O CRAB MC LLC; and DOES 3
through 50, inclusive,

Defendants.

Case No. 23CV000504

**CLASS, REPRESENTATIVE, AND
INDIVIDUAL ACTION**

**SECOND AMENDED COMPLAINT FOR
DAMAGES, PENALTIES AND FOR
INJUNCTIVE RELIEF**

Plaintiff Jasmin Jimenez, on behalf of herself and all other similarly situated current
and former employees of Defendants, and members of the public, complain and allege as
follows:

1. As used herein, the term "Plaintiff" includes Jasmin Jimenez, who is the named
Plaintiff and Class Representative herein.

2. Plaintiff and the Class Members alleged herein (collectively, "Class Members")
seek remedies for all compensation and penalties due to the Class Members during the "Class

Period,” which is defined as February 16, 2019, through December 4, 2024.

3. Each of the Class Members are identifiable, similarly-situated persons and are now or at some point during the Class Period were, employed by Defendants. Plaintiff reserves the right to seek additional amendments of this Complaint to add as a named Plaintiff some or all of the persons who are members of the Class.

4. Plaintiff Jasmin Jimenez (“Plaintiff”) is a competent adult who is, and at all times mentioned in this complaint has been, a resident of Monterey County, California. Plaintiff was employed by Defendants from approximately March 2021, through approximately June 2022, pursuant to an unwritten contract, some of the terms of which were the product of an oral agreement, with other terms implied from or incorporated from written materials and policies maintained by Defendants and from the conduct of the parties. The terms of this contract included working as a non-exempt employee, and at all times as an employee not exempted from the California Labor Code. Plaintiff is, and at all relevant times was, an individual as defined in Business and Professions Code §§ 17201 and 17204.

5. Defendant SEA HOUSE SALINAS, LLC (“SEA HOUSE”) is, and at all times mentioned in this complaint has been, a limited liability company incorporated under the laws of the State of California and registered to do business in the State of California. Plaintiff is informed and believes and thereon alleges that SEA HOUSE is authorized to and does conduct business throughout the State of California, has purposefully availed itself of the privileges and benefits of doing business in the State of California.

6. Defendant OMAR CAMPOS (“CAMPOS”) is an individual who at all relevant times has worked for Defendant SEA HOUSE in a managerial role. On information and belief, CAMPOS resides in Monterey County.

7. Defendant BAG O’CRAB, INC. (“BOC INC”) is, and at all times mentioned in this complaint has been, a corporation incorporated under the laws of the State of California and registered to do business in the State of California. Plaintiff is informed and believes and thereon alleges that BOC INC is authorized to and does conduct business throughout the State of California, has purposefully availed itself of the privileges and benefits of doing business in

1 the State of California.

2 8. Defendant SEA HOUSE SL, LLC (“SEA HOUSE SL”) is, and at all times
3 mentioned in this complaint has been, a limited liability company incorporated under the laws
4 of the State of California and registered to do business in the State of California. Plaintiff is
5 informed and believes and thereon alleges that SEA HOUSE SL is authorized to and does
6 conduct business throughout the State of California, has purposefully availed itself of the
7 privileges and benefits of doing business in the State of California.

8 9. Defendant BAG O CRAB MC, LLC (“BOC MC”) is, and at all times mentioned
9 in this complaint has been, a limited liability company incorporated under the laws of the State
10 of California and registered to do business in the State of California. Plaintiff is informed and
11 believes and thereon alleges that BOC MC is authorized to and does conduct business
12 throughout the State of California, has purposefully availed itself of the privileges and benefits
13 of doing business in the State of California.

14 10. Defendant SHAN BAN GUO (“GUO”) is an individual who at all relevant times
15 has worked for Defendants in a managerial role. On information and belief, GUO resides in
16 Monterey County.

17 11. Plaintiff and the Class Members are ignorant of the true names, identities,
18 capacities and relationships of the Defendants sued herein as DOES 1 through 50, inclusive,
19 and therefore sues these Defendants by such fictitious names. Plaintiff and the Class Members
20 are informed and believe, and thereon allege, that each of these fictitiously named Defendants
21 are responsible in some manner for the occurrences herein alleged, and that Plaintiff’s and the
22 Class Members’ damages as herein alleged were proximately caused by DOES 1 through 50.
23 Plaintiff and the Class Members will amend this Complaint to allege the true names and
24 capacities of said DOE Defendants when such information is ascertained. Each reference to
25 “Defendants,” and each reference to any particular Defendant herein, shall be construed to
26 refer to all Defendants, including, but not limited to, all of those fictitiously named herein as a
27 “DOE” Defendant, and each of them.

28 12. Plaintiff and the Class Members are informed and believe, and thereon allege,

1 that each of the Defendants herein was at all times relevant to this action the agent, employee,
2 representative, partner, and/or joint venturer of the remaining Defendants, and each of them,
3 and that each of the Defendants herein was at all times acting within the course and scope of
4 that relationship. Plaintiff and the Class Members are further informed and believe, and
5 thereon allege, that each of the Defendants herein consented to, ratified, and/or authorized the
6 acts of each of the remaining Defendants herein. The conduct of each of the Defendants was
7 at all times herein in accordance with and represents the official policy of Defendants.

8 Additionally, at all times herein mentioned, Defendants, and each of them, aided and abetted
9 the acts and omissions of each and all of the other Defendants, which proximately caused the
10 damages herein alleged. Plaintiff and the Class Members are further informed and believe,
11 and thereon allege, that all of the Defendants jointly employed the Plaintiff and Class
12 Members herein and/or carried out a joint scheme, business plan and/or uniform policy, and
13 the acts and omissions of each Defendant are legally attributable to the other Defendants such
14 that they are deemed a single integrated enterprise and agents of one another so that all
15 Defendants are each jointly and severally liable for the acts and omissions hereinafter alleged.

16 13. Defendants SEA HOUSE, CAMPOS, BOC INC, SEA HOUSE SL, BOC MC,
17 GUO, and DOES 3 through 50 (collectively referred to herein as “Defendants”) are, and at all
18 times herein were, “persons” as defined in California Business and Professions Code § 17201.

19 14. At all times herein, Defendants directly or indirectly, or through an agent or
20 representative, exercised control over the wages, hours and/or working conditions of the
21 Plaintiff and the Class Members, and directly or indirectly or through an agent or other person
22 engaged, suffered, or permitted Plaintiff and the Class Members to work.

23 **JURISDICTION AND VENUE**

24 15. This Court has jurisdiction over this action pursuant to Article VI, section 10 of
25 the California Constitution. Plaintiff brings this Complaint for violations of California law
26 occurring in the County of Monterey, including without limitation violations of the California
27 Labor Code, Business and Professions Code, Civil Code and common law, and the amount in
28 controversy exceeds the minimum jurisdictional amount of the Superior Court. Based on

1 information and belief, Defendants have intentionally availed themselves of the benefits and
2 privileges available within this State, economic or otherwise, so as to render the exercise of
3 jurisdiction over them by the courts of the State of California consistent with traditional
4 notations of fair play and substantial justice. Accordingly, this Court has jurisdiction over the
5 parties and claims in this matter.

6 16. Pursuant to Code of Civil Procedure § 395(a), venue is proper in this judicial
7 district because Defendants now, and all times relevant herein, reside and/or transact business
8 in the County of Monterey. The conduct alleged herein and the damages resulting therefrom
9 occurred in the County of Monterey, and at all times herein Defendants maintained their
10 principal place of business in the County of Monterey, California.

11 **ADMINISTRATIVE PROCEEDINGS**

12 17. Pursuant to California Labor Code § 2699.3, Plaintiff gave written notice on
13 January 10, 2023, by electronic filing with the Labor and Workforce Development Agency,
14 and by certified mail to Defendants of factual and legal basis for the labor law violations
15 alleged in this Complaint.

16 18. Pursuant to California Labor Code § 2699.3, Plaintiff seeks all applicable
17 penalties for violations which the Labor and Workforce Development Agency has failed or
18 elected not to investigate and/or failed or elected not to issue a citation. Plaintiff has
19 exhausted all administrative remedies required by the Labor and Workforce Development
20 Agency as a prerequisite to filing this action.

21 19. Pursuant to California Government Code §§ 12960 and 12965, Plaintiff has met
22 all the jurisdictional requirements for proceeding with her claims under the FEHA by timely
23 filing an administrative complaint against Defendants with the California Civil Rights
24 Department (the “CCRD”) on November 8, 2024. A true and correct copy of Plaintiff’s
25 CCRD complaint and right-to-sue letter is attached hereto as **Exhibit A**.

26 **GENERAL WAGE AND HOUR ALLEGATIONS**

27 20. Defendants now, and at all times relevant herein, did, own, operate and control a
28 business or establishment that employ persons within the meaning of all applicable wage

orders, including, but not limited to, IWC Wage Order No. 5-2001 (California Code of Regulations, title 8, section 11150).

21. At all times relevant herein, Plaintiff and the Class Members were non-exempt employees of Sea House Salinas, LLC, Sea House SL LLC, and Bag O Crab MC LLC under the California Labor Code and were protected by to the provisions of the Wage Order.

22. At all times relevant herein, Plaintiff and the Class Members worked for Defendants without the provision of being compensated for all hours worked, without being paid overtime premium wages for all overtime hours worked, without being paid all wages on time, working without meal or rest breaks as required by law, without being compensated for missed meal and rest breaks, without being paid the full payment of wages owed at the end of their employment, and without having been provided with complete and accurate wage statements as required by law.

23. At all times relevant herein, Defendants maintained and enforced a uniform policy by which they regularly and consistently precluded Plaintiff and the Class Members from leaving the work premises during their rest periods. As such, Plaintiff and the Class Members were not provided with off-duty rest periods as they were still subject to Defendant's control.

24. At all times relevant herein, Defendants maintained and enforced a uniform policy by which they regularly and consistently failed to pay Plaintiff and the Class Members their final wages on the last date of their employment. Rather, Defendant waited until the next normal payroll cycle to pay Plaintiff and the Class Members their final wages despite their employment having ended.

25. At all times relevant herein, Defendants maintained and enforced a uniform policy of requiring Plaintiff and the Class Members to work shifts of five hours or more within a single workday without providing a thirty (30) minute uninterrupted duty-free meal period within five (5) hours of the beginning of their shift. Defendants also failed to pay Plaintiff and the Class Members one hour of pay at Plaintiff' and Class Members' regular rate of compensation as required by California Labor Code § 226.7 and the Wage Order for each meal

1 period that was not provided.

2 26. Likewise, at all times relevant herein, Defendants maintained and enforced a
3 uniform policy by which they repeatedly failed to authorize, permit and provide Plaintiff and
4 the Class Members with paid duty-free rest periods of at least ten (10) consecutive
5 uninterrupted minutes during which Plaintiff and the Class Members were relieved of all
6 duties for every four (4) hours worked or major fraction thereof and which were counted as
7 hours worked for which there would be no deduction from wages, and failed to compensate
8 Plaintiff and the Class Members one (1) hour of wages at their regular rate of compensation as
9 required by California Labor Code § 226.7 and the Wage Order for each rest period not
10 provided.

11 27. At all times relevant herein, Defendants maintained and enforced a uniform
12 policy by which they regularly and consistently failed to pay Plaintiff and the Class Members
13 overtime premium wages of one and one-half times the employee's regular rate of pay for all
14 overtime hours worked in a single workday and/or a single workweek, as required by
15 California Labor Code §§ 510 and 1194 and the Wage Order.

16 28. At all times relevant herein, Defendants maintained and enforced a uniform
17 policy by which they regularly and consistently violated Labor Code §§ 510, 558, 1194 by
18 failing to pay Plaintiff and Class Members overtime wages at the correct regular rate of pay
19 that incorporated any non-discretionary incentive payments, including service charges.

20 29. At all times relevant herein, Defendants maintained and enforced a uniform
21 policy by which they regularly and consistently violated Labor Code §§ 201-203 and 246 by
22 failing to pay Plaintiff and the Class Members their sick pay at their regular rate of pay that
23 incorporated any non-discretionary incentive payments, including service charges.

24 30. At all times relevant herein, Defendants maintained and enforced a uniform
25 policy by which they regularly and consistently failed to provide Plaintiff and the Class
26 Members with complete and accurate itemized wage statements stating the total hours worked,
27 regular and overtime hours worked, gross wages earned, net wages earned, all applicable rates
28 of pay and the corresponding number of hours worked under each rate, all deductions, wages

1 owed for missed rest and meal periods, and accurate accounting for all wages paid to Plaintiff
2 and the Class Members. Defendants also failed to record in ink or other identifiable form all
3 deductions from wages showing the month, day and year, and failed to keep a copy of the
4 statements and records of deductions for three years at the place of employment or at a central
5 location in the State of California. Defendants also failed to keep accurate information with
6 respect to each employee, including full name, home address, occupation, birth date, time
7 records showing when the employee begins and ends each work period, meal periods, total
8 daily hours worked and total wages paid each payroll period, including value of board,
9 lodging, or other compensation actually furnished to the employee.

10 31. At all times relevant herein, Defendants maintained and enforced a uniform
11 policy by which they regularly and consistently violated California Labor Code §§ 201,
12 202, 204, 216, 218, 221, 223, 1194, 1198 and the Wage Order by unlawfully refusing to pay
13 wages to Plaintiff and the Class Members.

14 32. At all times relevant herein, Defendants maintained and enforced a uniform
15 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
16 and 203 by failing to pay Plaintiff and the Class Members all owing and unpaid wages for
17 work performed by them during their employment and at the end of their employment.

18 33. At all times relevant herein, Defendants maintained and enforced a uniform
19 policy by which they regularly and consistently violated California Labor Code §§ 201, 202,
20 204, 218, 1194, 1198, 1199 and the Wage Order by failing to pay Plaintiff and the Class
21 Members for all hours worked, overtime premium wages for all overtime hours worked, and
22 compensation for missed meal and rest periods,

23 34. Plaintiff and the Class Members are informed and believe, and thereon allege,
24 that at all times herein mentioned, Defendants were advised by skilled lawyers and other
25 professionals, employees and advisors knowledgeable about California labor and wage law,
26 employment and personnel practices, and about the requirements of California law. Plaintiff
27 and the Class Members are informed and believe, and thereon allege, that at all times relevant
28 herein, Defendants knew or should have known that they had a duty to compensate Plaintiff

1 and the Class Members, and that Defendants had the financial ability to pay such
2 compensation, but willfully, knowingly and intentionally failed to do so, and falsely
3 represented to Plaintiff and the Class Members that they were properly denied wages, all in
4 order to increase Defendants' profits.

5 35. California Labor Code § 218 states that nothing in Article I of the Labor Code
6 shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to
7 him under this Article."

8 **CLASS ACTION WAGE AND HOUR ALLEGATIONS**

9 36. Plaintiff brings this action on behalf of herself, the general public, and all other
10 similarly situated persons as a class action pursuant to Code of Civil Procedure § 382. All
11 claims alleged herein arise under California law for which Plaintiff seeks relief authorized by
12 California law. Plaintiff seeks to represent a class composed of and defined as follows: All
13 current and former non-exempt employees of Sea House Salinas, LLC, Sea House SL LLC,
14 and Bag O Crab MC LLC who worked for Defendants in California from February 16, 2019,
15 through December 4, 2024.

16 37. Plaintiff reserves the right under Code of Civil Procedure § 382 to amend or
17 modify the class description with greater specificity, further division into subclasses or with
18 limitations to particular issues.

19 38. This action has been brought and may be properly maintained as a class action
20 under the provisions of Code of Civil Procedure § 382 because the questions of law and fact at
21 issue herein are common and of general interest to Plaintiff and the Class Members, the parties
22 are numerous, and it would be impracticable to bring the claims alleged herein before the court
23 as individual claims or through some other than a class action.

24 **A. Numerosity**

25 39. The Class Members are so numerous that joinder of all the members of the class
26 is not feasible and not practical. While the precise number the Class Members has not been
27 determined at this time, Plaintiff is informed and believes that Defendants currently employ,
28

1 and during the Class Period regularly employed, more than 50 employees in California in
2 hourly wage or otherwise non-exempt positions. The identities of the Class Members are
3 readily ascertainable by inspection of Defendants' employment records. Moreover, joinder of
4 all members of the proposed class is not practicable, and individual damages for each member
5 is not anticipated to be sufficiently high to allow for practical resolution through
6 individualized litigation.

7 **B. Commonality and Predominance**

8 40. There are questions of law and fact common to each Class Member that
9 predominate over any questions affecting only individual Class Members. These common
10 questions of law and fact include, without limitation:

11 a. Whether Defendants violated California Labor Code §§ 226.7 and 512
12 and the Wage Order by failing to provide a 30 minute duty-free meal period within the first
13 five hours of each workday to Plaintiff and the Class Members on days they worked in excess
14 of five hours, and failing to compensate Plaintiff and the Class Members one hour of wages at
15 their regular rate of pay for each such missed meal period that was not provided;

16 b. Whether Defendants violated Labor Code § 226.7 and the Wage Order
17 by failing to provide a paid 10 minute duty-free rest period to Plaintiff and the Class Members
18 for every four-hour work period or major fraction thereof, by either not paying wages to
19 Plaintiff and the Class Members or reducing their wages for time spent during any rest period
20 that was provided, and by failing to compensate Plaintiff and the Class Members one hour of
21 wages for such missed and/or unpaid/underpaid rest periods;

22 c. Whether Defendants violated Labor Code §§ 1194 and 1198 and the
23 Wage Order by failing to pay Plaintiff and the Class Members the appropriate premium
24 overtime wages for all overtime hours worked;

25 d. Whether Defendants violated Labor Code §§ 510, 558, 1194 by failing to
26 pay Plaintiff and Class Members overtime wages at the correct regular rate of pay that
27 incorporated any non-discretionary incentive payments, including service charges;

28 e. Whether Defendants violated Labor Code §§ 201-203 and 246 by failing

1 to pay Plaintiff and the Class Members their sick pay at their regular rate of pay that
2 incorporated any non-discretionary incentive payments, including service charges;

3 f. Whether Defendants violated California Labor Code § 226 by failing to
4 provide accurate itemized wage statements to Plaintiff and the Class Members containing all
5 of the information required by Labor Code § 226;

6 g. Whether Defendants violated California Labor Code §§ 201, 202, 204,
7 216, 218, 221, 1194 and 1198 by failing and refusing to pay Plaintiff and the Class Members
8 agreed wages for all work performed by them, including minimum wage and/or overtime as
9 compensation for any and all hours worked;

10 h. Whether Defendants violated Labor Code §§ 201, 202, 203 and 204 by
11 failing to timely pay Plaintiff and the Class Members all wages for work performed by them
12 during their employment and failing to timely pay Plaintiff and the Class Members at the end
13 of their employment all wages for work performed by them during their employment;

14 i. Whether Defendants violated Labor Code §§ 201, 202, and 204 by
15 failing to timely pay Plaintiff and the Class Members for all wages and hours worked during
16 their employment;

17 j. Whether Defendants violated Labor Code § 2802 by failing to reimburse
18 employees for all business expenses, including phone-related expenses incurred in connection
19 with mandatory work-related phone calls;

20 k. Whether Defendants' failure to pay wages, and premiums in accordance
21 with the California Labor Code and the Wage Order was willful;

22 l. Whether Defendants violated Labor Code § 1198 and the Wage Order for
23 failing to keep accurate records with respect to each employee;

24 m. Whether Defendants' conduct as alleged throughout this complaint was
25 willful or reckless;

26 n. The appropriate amount of damages, restitution and/or monetary
27 penalties resulting from Defendants' violations of California law;

28 o. Whether Plaintiff and the Class members are entitled to equitable relief,

1 including but not limited to, injunctive and declaratory relief, pursuant to Business and
2 Professions Code §§ 17200 et seq.; and

3 p. Whether Defendants violated Business and Professions Code §§ 17200 et
4 seq., by failing to provide meal and rest periods mandated by Labor Codes § 226.7, 512 and
5 the Wage Order; by failing to compensate Plaintiff and the Class Members one (1) hour of pay
6 for meal periods and rest periods that were not provided; by failing to pay regular and
7 overtime wages for all hours worked; failing to pay reporting time pay; failing to provide
8 complete and accurate wage statements to Plaintiff and the Class Members in accordance with
9 Labor Code § 226; by failing to pay agreed wages; by failing to pay Plaintiff and the Class
10 Members all wages due upon termination; and by failing to timely provide all wages due to
11 Plaintiff and the Class Members.

12 **C. Typicality**

13 41. The claims of Plaintiff are typical of the claims of the Class Members. Plaintiff
14 and the Class Members sustained injuries and damages arising out of and caused by the
15 Defendants' common course of conduct in violation of statutes, common law, wage orders
16 and/or regulations that have the force and effect of law, as alleged herein. Plaintiff has a well-
17 defined community of interest with the Class Members and are qualified to, and will, fairly
18 and adequately protect the interests of each Class Member.

19 **D. Adequacy of Representation**

20 42. Plaintiff will fairly and adequately represent and protect the interests of the Class
21 Members. Plaintiff acknowledges Plaintiff's obligation to make known to the Court any
22 relationship, conflict or difference with any Class Member. Plaintiff has incurred and
23 throughout this action will continue to incur, costs and attorney's fees necessarily expended
24 for the prosecution of this action for the substantial benefit of each Class Members. Counsel
25 who represents Plaintiff is competent and experienced in litigating class actions, versed in the
26 rules governing class action discovery certification, settlement and trial, and will vigorously
27 and competently pursue the claims of Plaintiff and the Class Members.

1 **E. Superiority**

2 43. The nature of this action makes the use of class action adjudication superior to
3 other methods. The class action will achieve economies of time, effort and expense as
4 compared with separate individual lawsuits on behalf of each Class Member, and will avoid
5 inconsistent outcomes because the same issues will be adjudicated in the same manner and at
6 the same time for the entire class.

7 **F. Public Policy Consideration**

8 44. Employers in the State of California violate employment and labor laws on a
9 daily basis. Employees are often intimidated and afraid to assert their rights out of fear that
10 they will be subjected direct or indirect retaliation by their employers. Former employees
11 (those who are no longer employed by a particular employer who had subjected them to
12 employment and labor law violations) are fearful of brining actions against their former
13 employers because they believe their former employers might damage their future endeavors
14 through negative references and/or other means. Class actions provide Class Members who
15 are not named in the complaint with vindication of their rights while also protecting their
16 privacy and shielding them from retaliation.

17 **SEXUAL HARASSMENT AND RETALIATION ALLEGATIONS**

18 45. Plaintiff was hired by SEA HOUSE, in April 2021, as a food server at SEA
19 HOUSE's Bag O' Crab Restaurant in Salinas, California. CAMPOS regularly spoke
20 inappropriately, in a sexually harassing and/or discriminatory manner towards Plaintiff.
21 CAMPOS called Plaintiff, "You dumb bitch." He spoke about her physical appearance
22 inappropriately: "You're so skinny, do you eat?" CAMPOS also told Plaintiff that a cook
23 named Roberto had a crush on her, and CAMPOS made Plaintiff physically hug Roberto.
24 When Plaintiff spoke up to or resisted CAMPOS, he took adverse employment actions against
25 her. He cut her hours, he yelled at her, and he made her apologize to him. CAMPOS' actions
26 caused Plaintiff to feel distressed, humiliated, uncomfortable, and unsafe.

27 46. When Plaintiff spoke up to or resisted CAMPOS' discrimination and
28 harassment, he retaliated against her by treating her harshly and with more scrutiny than other

employees. He cut her hours, and ultimately he fired her. He told her she was a “distraction” to the other employees and told her to “get the fuck out.” Discrimination and Sexual Harassment were motivating factors in Defendants’ termination of Plaintiff. Defendants also unlawfully retaliated against Plaintiff for engaging in protected activity (resisting discrimination or harassment).

47. Plaintiff’s employment with SEA HOUSE ended on or about June 15, 2022, when she was wrongfully terminated by Defendants.

48. Defendants’ actions amounted to the wrongful termination of Plaintiff’s employment in violation of the California Fair Employment and Housing Act, Govt. Code § 12940, et. seq.

FIRST CAUSE OF ACTION
Failure to Provide Meal Periods or Compensation in Lieu Thereof
(Labor Code §§ 226.7 and 1198; and the Wage Order)
(Plaintiff and the Class Members against Defendants)

49. Plaintiff and the Class Members allege and incorporate by reference paragraphs 16 through 40 as though fully set forth herein.

50. California Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission. Labor Code § 226.7 further provides that if an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.

51. At all times relevant to this action, the Wage Order and California Labor Code § 1198 provided that an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee.

1 52. Throughout the Class Period, Defendants and/or their authorized supervisors
2 repeatedly failed to comply with the meal period requirements of the Labor Code and the
3 Wage Order by failing to provide Plaintiff and the Class Members with a thirty (30) minute
4 uninterrupted duty-free meal period within five (5) hours of the beginning of their shift, in
5 violation of Labor Code §§ 512, 226.7, and the Wage Order. Defendants also failed to
6 compensate Plaintiff and the Class Members one (1) hour of wages for any of the missed meal
7 periods not provided by Defendants, as alleged above, which failure also violated Labor Code
8 §§512 and 226.7 and the Wage Order.

9 53. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and
10 the Class Members are entitled to recover from Defendants one (1) additional hour of pay at
11 their regular hourly rate of compensation for each meal period violation as alleged herein.

12 54. Defendants were at all times aware of the Labor Code and Wage Order
13 requirements that they provide Plaintiff and the Class Members with such meal periods and
14 was aware that Plaintiff and the Class Members regularly worked more than five (5) hours in a
15 shift without receiving mandated meal periods. Thus, Defendants willfully violated the
16 provisions of Labor Code §§ 226.7 and 512 and the Wage Order.

17 55. As a result of the unlawful conduct of Defendants, Plaintiff and the Class
18 Members have been deprived of wages and other compensation in amounts to be determined at
19 trial, and are entitled to recovery of such amounts.

20 56. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
21 for.

22
23 **SECOND CAUSE OF ACTION**
24 **Failure to Provide Rest Periods or Compensation in Lieu Thereof**
 (Labor Code §§ 226.7 and 1198; and The Wage Order)
 (Plaintiff and the Class Members against Defendants)

25 57. Plaintiff and the Class Members allege and incorporate by reference paragraphs
26 16 through 40 as though fully set forth herein.

27 58. California Labor Code § 226.7 provides that no employer shall require an
28 employee to work during any rest period mandated by an applicable order of the California

1 Industrial Welfare Commission. Labor Code Section 226.7 further provides that if an
2 employer fails to provide an employee a meal period or rest period in accordance with an
3 applicable order of the Industrial Welfare Commission, the employer shall pay the employee
4 one additional hour of pay at the employee's regular rate of compensation for each workday
5 that the meal or rest period is not provided.

6 59. The Wage Order and California Labor Code § 226.7 provides that every
7 employer shall provide and shall authorize and permit all employees to take rest periods,
8 which insofar as practicable shall be in the middle of each work period, and that the rest period
9 time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time
10 per four (4) hours or major fraction thereof, unless the total daily work time is less than three
11 and one-half hours.

12 60. Throughout the Class period, on days in which Plaintiff and the Class Members
13 worked at least three and one half hours, Defendants regularly and repeatedly required
14 Plaintiff and the Class Members to work four (4) hours and/or a major fraction thereof without
15 providing, authorizing or permitting at least one ten (10) minute rest period during which
16 Plaintiff's and the Class Members were relieved of all duties (hereafter "rest period") per each
17 four (4) hour period, or a major fraction thereof, worked.

18 61. Throughout the Class Period, Defendants failed to pay Plaintiff and the Class
19 Members a premium of one hour pay at their regular rate of pay for each rest period not
20 provided, authorized, and permitted as alleged herein, pursuant to Labor Code § 226.7.

21 62. Defendants were at all times aware of the Labor Code and Wage Order
22 requirements that they provide Plaintiff and the Class Members with the rest periods described
23 above and were aware that Plaintiff and the Class Members regularly worked more than four
24 (4) hours or major fraction thereof without receiving mandated rest periods. Defendants
25 therefore at all times willfully violated the provisions of Labor Code § 226.7 and the Wage
26 Order.

27 63. Pursuant to the Wage Order and California Labor Code § 226.7(b), Plaintiff and
28 the Class Members are entitled to recover from Defendants one (1) additional hour of pay at

1 their regular hourly rate of compensation for each workday that a rest period was not provided.
2 As a result of the unlawful conduct of Defendant, Plaintiff have been deprived of wages and
3 compensation in amounts to be determined at trial, and are entitled to recovery of such
4 amounts.

5 64. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
6 for.

7 **THIRD CAUSE OF ACTION**
8 **Failure to Pay Hourly and Overtime Wages**
9 **(California Labor Code §§ 1194 and 1198; and The Wage Order)**
10 **(Plaintiff and the Class Members against Defendants)**

11 65. Plaintiff and the Class Members allege and incorporate by reference paragraphs
12 16 through 40 as though fully set forth herein.

13 66. Plaintiff and the Class Members base this cause of action upon Defendants'
14 willful and intentional violations of the California Labor Code and Industrial Welfare
15 Commission requirements that Defendants pay Plaintiff and the Class Members for all hours
16 worked, including the requirement to pay premium overtime wages to Plaintiff and the Class
17 Members for overtime hours worked in a workday and/or in a workweek, and/or on the
18 seventh consecutive day in a workweek.

19 67. Pursuant to Labor Code § 204, as well as other applicable laws and regulations,
20 and public policy, an employer must timely pay its employees for all hours worked.

21 68. Labor Code § 1198 provides that "The maximum hours of work and the standard
22 conditions of labor fixed by the commission shall be the maximum hours of work and the
23 standard conditions of labor for employees. The employment of any employee for longer hours
24 than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

25 69. Labor Code § 1194 provides that "any employee receiving less than the legal
26 minimum wage or the legal overtime compensation applicable to the employee is entitled to
27 recover in a civil action the unpaid balance of the full amount of this minimum wage or
28 overtime compensation, including interest thereon, reasonable attorney's fees, and costs of
suit."

70. Throughout the Class Period, Defendants knew or had reason to know that

1 Plaintiff and the Class Members were regularly and consistently worked overtime without
2 being paid the appropriate premium overtime wage required by Labor Code §§ 1194 and 1198,
3 and the Wage Order.

4 71. Throughout the Class Period, Defendants' conduct as alleged herein amounted to
5 a uniform pattern of unlawful wage and hour practices which resulted from the
6 implementation of uniform policies and practices by which Defendants failed to accurately
7 record all hours worked by Plaintiff and the Class Members thereby denying payment of
8 overtime premium wages to Plaintiff and the Class Members for overtime hours worked.

9 72. In committing the violations of the California Labor Code as alleged herein,
10 Defendants engaged in an illegal attempt to avoid the payment of all earned wages and other
11 benefits in violation of the California Labor Code, the Industrial Welfare Commission
12 requirements and other applicable laws and regulations.

13 73. As a direct result of Defendants' unlawful wage practices as alleged herein,
14 Plaintiff and the Class Members have been denied full compensation for all hours worked by
15 them, including but not limited to premium overtime wages for overtime hours.

16 74. The Labor Code and the Wage order set forth various exemptions by which
17 certain categories of employees are exempt from the protections of the overtime laws
18 contained in the Labor Code. At no time during Plaintiff's employment did any of these
19 exemptions apply to Plaintiff and the Class Members. Moreover, at no time were Plaintiff and
20 the Class Members subject to a valid collective bargaining agreement that would preclude the
21 causes of action set forth in this complaint. Rather, Plaintiff and the Class Members bring this
22 action because of Defendants' violations of non-waiveable rights guaranteed to them by the
23 State of California.

24 75. As a direct consequence of Defendants' unlawful failure to pay Plaintiff and the
25 Class Members the full and accurate amount of all earned wages at the appropriate rate for the
26 true number of hours they worked, Plaintiff and the Class Members have suffered and will
27 continue to suffer economic injuries in an amount which is presently unknown to them and
28 which will be ascertained according to proof at trial.

1 76. In performing the acts and practices in violation of California labor laws as
2 herein alleged, Defendants have acted and continue to act intentionally, oppressively and
3 maliciously towards Plaintiff and the Class Members, with a conscious disregard for their legal
4 rights and the consequences to them, and with the intent of depriving them of their property
5 and legal rights and otherwise causing them injury, in order to increase Defendants' profits at
6 the expense of Plaintiff and the Class Members.

7 77. Plaintiff and the Class Members request recovery of all unpaid wages, including
8 overtime premium wages, in an amount according to proof, interest on such amounts, statutory
9 costs, and the assessment of any and all statutory penalties against Defendants, all in the sums
10 as provided by the California Labor Code and/or other applicable statutes. In addition, to the
11 extent that overtime compensation is owed Plaintiff and the Class Members whose
12 employment has been terminated, Defendants' conduct violates Labor Code §§ 201 and/or
13 202, entitling Plaintiff and the Class Members to waiting time penalties under Labor Code §
14 203, which penalties are sought herein on behalf of Plaintiff and the Class Members.

15 78. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
16 for.

17 **FOURTH CAUSE OF ACTION**
18 **Failure to Comply with Itemized Employee Wage Statement Requirements**
19 **(California Labor Code §§ 226, 1174 and 1175; and The Wage Order)**
20 **(Plaintiff and the Class Members against Defendants)**

21 79. Plaintiff and the Class Members allege and incorporate by reference paragraphs
22 16 through 40 as though fully set forth herein.

23 80. Labor Code § 226(a) and the Wage Order require Defendants to itemize in wage
24 statements all deductions from payment of wages, to accurately report total hours worked, to
25 report the rate of pay for hours worked, and keep the records on file at the place of
26 employment or at a central location within the State of California. Defendants have
27 knowingly and intentionally failed to comply with Labor Code § 226(a) and the Wage Order
28 with respect to wage statements they have provided to Plaintiff and the Class Members.

 81. Labor Code § 1174 and the Wage Order requires Defendants to maintain and
preserve, at the place of employment or at a central location within the State of California,

1 among other items, accurate records showing the names and addresses of all employees
2 employed, payroll records accurately showing the hours worked daily and the wages paid to its
3 employees. Defendants have knowingly and intentionally failed to comply with these
4 requirements in violation of Labor Code §§ 1174 and 1175 and the Wage Order.

5 82. Labor Code § 226(a) and the Wage Order provide that every employer shall,
6 semimonthly or at the time of each payment of wages, furnish each of its employees an
7 accurate itemized statement in writing showing gross wages earned, total hours worked by the
8 employee, the number of piece rate units and the applicable rate, all deductions, net wages
9 earned, the inclusive dates of the period for which the employee is paid, the name of the
10 employee and the last four digits of the employee's social security number (or an employee
11 identification number), the name and address of the legal entity that is the employer and all
12 applicable hourly rates in effect during the pay period and the corresponding numbers of hours
13 worked at each hourly rate by the employee. Labor Code § 226(a) mandates that deductions
14 made from payments of wages shall be recorded in ink, properly dated and a copy of the
15 statement or a record of deductions be kept on file by the employer for at least three years.
16 Moreover, the Wage Order requires Defendants to maintain time records for each employee
17 showing, including but not limited to, an accurate report of the total hours worked by each
18 employee, when the employee begins and ends each work period, meal periods, and total daily
19 hours worked in itemized wage statements, and all deductions from payment of wages.

20 83. Throughout the Class Period, Defendants have regularly and consistently,
21 intentionally and willfully, failed to provide Plaintiff and the Class Members with complete
22 and accurate wage statements.

23 84. The Wage Order provides that an employer must keep accurate information with
24 regard to each employee, which shall include time records showing when the employee begins
25 and ends each work period, split shift intervals, total daily hours worked and total hours
26 worked in the pay period and the applicable rates of pay.

27 85. Throughout the Class Period, Defendants continually failed to keep accurate
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1 records and information with regard to Plaintiff and the Class Members as required by the
2 Wage Order. Defendants repeatedly provided Plaintiff and the Class Members with wage
3 statements that, among other inaccuracies, failed to include complete and accurate information
4 on the following: (1) gross wages earned; (2) total hours worked; (3) all deductions from
5 wages; (4) net wages earned; (5) all applicable hourly rates in effect during the pay period and
6 the corresponding number of hours worked at each hourly rate; and (6) reimbursement for
7 work-related expenses.

8 86. As a result of Defendants' violation of Labor Code §§ 226(a), 1174 and 1175, as
9 well as the Wage Order, Plaintiff and the Class Members have suffered injury and damage to
10 their statutorily-protected rights. These injuries and damages include, but are not limited to,
11 the denial of their legal right to receive and their protected interest in receiving accurate,
12 itemized wage statements under Labor Code § 226(a). Moreover, the inaccurate and
13 incomplete wage statements provided by Defendants deceived Plaintiff and the Class
14 Members about the wages and other compensation to which they were entitled and deprived
15 them of such wages and compensation. As a further result of Defendants' failure to provide
16 Plaintiff and the Class Members with accurate wage statements in accordance with Labor
17 Code § 226 and to keep accurate time records as required by the Wage Order, Plaintiff and the
18 Class Members have suffered injuries and are entitled to penalties under Labor Code § 226
19 and Labor Code § 226.3 which states that any employer who violates § 226 shall be subject to
20 a civil penalty in the amount of \$250.00 per employee per violation in an initial citation. The
21 civil penalty provided for in this section is in addition to any other penalty provided by law, in
22 an amount to be proven at trial. The injuries suffered by Plaintiff and the Class Members
23 include, but are not limited to, having been, and continuing to be, forced to conduct
24 investigations and perform mathematical computations in an attempt to reconstruct their time
25 records; the inability to reconstruct their time records; the inability to discern the amount of
26 wages they were paid and/or the applicable wage rate; the inability to determine the number of
27 hours, including but not limited to, overtime hours they worked; the inability to determine the
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1 number of rest periods and meal periods they were forced to forego; the inability to determine
2 whether they were compensated for all meal and rest periods of which they had been deprived;
3 the inability to determine whether they were paid all wages due for work they performed; the
4 inability to determine the amount of wages owing and unpaid; having been, and continuing to
5 be, forced to hire attorneys and initiate a lawsuit in order to ascertain the aforementioned
6 information.

7 87. Plaintiff and the Class Members are further entitled to recover from Defendants
8 the greater of their actual damages caused by Defendants' failure to comply with Labor Code
9 § 226(a), or an aggregate penalty not exceeding \$4,000.00.

10 88. Plaintiff and the Class Members are also entitled to injunctive relief to ensure
11 compliance with this section, pursuant to Labor Code § 226(g).

12 89. Pursuant to Labor Code § 226(e), each employee suffering injury as a result of a
13 knowing and intentional failure by an employer to comply with Labor Code § 226(a) is
14 entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in
15 which a violation occurs and \$100.00 per employee for each violation in a subsequent pay
16 period, not exceeding an aggregate penalty of \$4,000.00, and is entitled to an award of costs
17 and reasonable attorneys' fees.

18 90. Moreover, an employee is entitled under the Labor Code § 226(g) to injunctive
19 relief to ensure compliance with Labor Code § 226 and is entitled to an award of costs and
20 reasonable attorneys' fees.

21 91. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
22 for.

23 **FIFTH CAUSE OF ACTION**
24 **Failure to Pay All Wages Upon Termination**
(California Labor Code §§ 201, 202 and 203; and The Wage Order)
25 **(Plaintiff and the Class Members against Defendants)**

26 92. Plaintiff and the Class Members allege and incorporate by reference paragraphs
27 16 through 40 as though fully set forth herein.

28 93. Labor Code § 203 provides that if an employer willfully fails to pay wages owed

1 in accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue
2 as a penalty from the due date, and at the same rate until paid, but the wages shall not continue
3 for more than thirty (30) days.

4 94. Labor Code § 201 provides if an employer discharges an employee, the wages
5 earned and unpaid at the time of discharge are due and payable immediately.

6 95. Labor Code § 202 provides that an employee is entitled to receive all unpaid
7 wages no later than 72 hours after an employee quits his or her employment, unless the
8 employee has given 72 hours previous notice of his or her intention to quit, in which case the
9 employee is entitled to his or her wages at the time of quitting.

10 96. Defendants willfully failed to pay Plaintiff and the Class Members all their
11 wages due, as alleged hereinabove and hereinafter, upon the termination of their employment
12 within the times prescribed by Labor Code §§201 and 202 and are therefore subject to a
13 waiting time penalty. Plaintiff and the Class Members are entitled to recover from Defendants
14 the statutory penalty for each day they were not paid at their regular hourly rate of pay, up to a
15 thirty (30) day maximum pursuant to California Labor Code § 203.

16 97. WHEREFORE, Plaintiff and the Class Members request relief as herein prayed
17 for.
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19 **SIXTH CAUSE OF ACTION**
20 **Violation of Labor Code § 2802**
21 **(Plaintiff and the Class Members against Defendants)**

22 98. Plaintiff and the Class Members allege and incorporate by reference paragraphs
23 16 through 40 as though fully set forth herein.

24 99. Pursuant to Labor Code § 2802 an employer shall indemnify his or her employee
25 for all necessary expenditures or losses incurred by the employee in direct consequence of the
26 employee's discharge of his or her duties.

27 100. At all times herein alleged, Defendants regularly and consistently violated Labor
28 Code § 2802 by failing to reimburse Plaintiff and the Class Members for expenses incurred in

1 the performance of their duties, including expenses associated with the use of Plaintiff's and
2 the Class Members' personal phones for mandatory work-related phone calls.

3 101. Plaintiff and the Class Members were required to retain attorneys to bring this
4 action and are entitled to an award of reasonable attorneys' fees pursuant to Labor Code §
5 2802(c).

6 **SEVENTH CAUSE OF ACTION**
7 **California Labor Code Private Attorneys General Act of 2004**
8 **(California Labor Code § 2698)**
9 **(Plaintiff and the Aggrieved Employees against Defendants)**

10 102. Plaintiff and the Class Members allege and incorporate by reference paragraphs
11 16 through 40 as though fully set forth herein.

12 103. California Labor Code §§ 2698, et seq. ("PAGA") permits Plaintiff to recover
13 civil penalties for the violation(s) of the Labor Code Sections enumerated in Labor Code
14 Section 2699.5.

15 104. Plaintiff is an "aggrieved employee" pursuant to Labor Code § 2699, as Plaintiff
16 has suffered violations including, but not limited to, Labor Code §§ 201-204, 207-209, 216,
17 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198,
18 1199, 2698 et seq 2699(f) and (g), 2800, 2802, and the Wage Order.

19 105. Pursuant to PAGA, and in particular California Labor Code §§ 2699(a), 2699.3,
20 and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks
21 assessment and collection of civil penalties for Plaintiff and the employees, and the State of
22 California against Defendants on behalf of herself and the employees.

23 106. WHEREFORE, Plaintiff requests relief as hereinafter prayed for.

24 **EIGHTH CAUSE OF ACTION**
25 **Unfair Business Practices**
26 **(California Business and Professions Code §§ 17200 et seq. and Common Law)**
27 **(Plaintiff and the Class Members against Defendants)**

28 107. Plaintiff and the Class Members allege and incorporate by reference paragraphs
16 through 40 as though fully set forth herein.

108. Plaintiff and the Class Members suffered direct injury as a result of the
Defendants' conduct, as alleged in the preceding paragraphs, and bring this action under Code

1 of Civil Procedure § 382. The deprivation by Defendants of Plaintiff and the Class Members
2 of wages due and lawful meal and rest periods, and Defendants' provision of inaccurate wage
3 statements, are unlawful business practices within the meaning of Business and Professionals
4 Code § 17200, et seq. including, but not limited to, a violation of the Wage Order, regulations,
5 and statutes, and further, whether or not in violation of the aforementioned Wage Order,
6 regulation and statutes, amount to practices which are otherwise unfair.

7 109. Under Business and Professions Code § 17200, et seq., including, but not limited
8 to §§ 17201, 17203, and 17208, Plaintiff asserts standing on behalf of herself and on the behalf
9 of each of the members of the class alleged herein. Plaintiff and the Class Members seek,
10 among others, restitution of compensation due during the Class Period.

11 110. Throughout the Class Period, Defendants have committed violations of law, as
12 described herein, including, but not limited to: violation of Labor Code §§ 204, 216, 218, 221,
13 226.7, 510, 512(a), 1194, 1198, 2802 and the Wage Order.

14 111. These unlawful and unfair business practices defeat the public interest purposes
15 of the State's labor laws, as set forth in the sections of the California Labor Code, the
16 California Code of Regulation and the Wage Order referenced elsewhere in this complaint, all
17 of which promote compliance with labor laws and employment regulations by participants in
18 Defendants' industry.

19 112. Defendants' unfair and unlawful business practices thus have violated the
20 sections of the Labor Code, California Code of Regulation and the Wage Order referenced in
21 this complaint and have imposed harm on their employees and their competitors and will
22 continue to do so until abated. As a result of these unfair and unlawful business practices,
23 Defendants have retained monies belonging to Plaintiff and the Class Members and they have
24 been unjustly enriched at Plaintiff' and the Class Members' expense. Plaintiff and the Class
25 Members are entitled to restitution of the wages and monies withheld and retained by
26 Defendants during the Class Period and a preliminary and permanent injunction requiring
27 Defendants to pay all wages and sums due to Plaintiff and the Class Members, to provide
28

1 mandatory rest and meal periods, and to provide accurate and complete wage statements.

2 113. As a direct and proximate result of Defendants' conduct, Plaintiff and the Class
3 Members have suffered injury and loss of money.

4 114. This action will result in the enforcement of an important right affecting the
5 public interest. The conduct of Defendants as alleged herein has been and continues to be
6 unfair, unlawful and harmful to Plaintiff and the Class Members, and the general public.
7 Accordingly, under Code of Civil Procedure § 1021.5, Plaintiff and the Class Members are
8 entitled to an award of reasonable attorneys' fees according to proof.

9 115. WHEREFORE, Plaintiff and the Class Members request relief as hereinafter
10 prayed for.

11 **NINTH CAUSE OF ACTION**
12 **Sexual Harassment in Violation of the FEHA**
13 **(Plaintiff against Defendants)**

14 116. Plaintiff hereby incorporates paragraphs 41 through 44 of this Complaint as if
15 fully alleged herein.

16 117. At all times herein mentioned, the FEHA was in full force and effect and was
17 fully binding upon Defendants. Specifically, California Government Code § 12940(j) prohibits
18 an employer from sexually harassing an employee on the basis of her sex or gender.

19 118. The actions of Defendants towards Plaintiff as described herein, created a hostile
20 sexual environment which materially altered Plaintiff's working conditions, and which
21 constitute sexual harassment in violation of Government Code § 12940(j)(1).

22 119. As a direct, foreseeable and proximate result of the unlawful actions of
23 Defendants, Plaintiff has suffered and continues to suffer compensatory damages, including
24 without limitation, lost wages, loss of future earnings, emotional distress, mental anguish,
25 embarrassment, humiliation, loss of future advancement, and damage to her reputation in the
26 business community, in the amount of at least \$25,000.00, according to proof at the time of
27 trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an
28 unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment
interest accruing from the date of the filing of this action pursuant to California Civil Code §§

3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

120. As a direct, foreseeable and proximate result of the unlawful actions of Defendants, Plaintiff has been forced to hire attorneys to prosecute the claims alleged herein and has incurred and is expected to continue to incur attorneys' fees. Pursuant to California Government Code § 12965(b), Plaintiff requests the award of attorneys' fees against Defendants.

121. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious disregard of Plaintiff's rights and safety. The outrageousness of Defendants' conduct is amplified due to Campos' abuse of his position with actual and apparent authority over Plaintiff, such as is commonly found in employment relationships, and which is further amplified in this case given Campos' authority as the General Manager. As such, Plaintiff is entitled to an award of punitive damages in an amount according to proof.

TENTH CAUSE OF ACTION
Sex Discrimination in Violation of the FEHA
(Plaintiff against Defendants)

122. Plaintiff hereby incorporates paragraphs 41 through 44 of this Complaint as if fully alleged herein.

123. California Government Code § 12940(a) prohibits an employer from discriminating against an employee on the basis of his/her sex or gender.

124. Defendants discriminated against Plaintiff on account of her sex/gender. As described above, Plaintiff suffered adverse employment action in the form of workplace harassment which was motivated by her sex/gender, and those adverse employment actions materially affected the terms and conditions of Plaintiff's employment. Sexual harassment is a form of gender discrimination.

125. As a direct, foreseeable and proximate result of Defendants' unlawful actions, Plaintiff has suffered and continues to suffer compensatory damages, including without limitation, lost wages, loss of future earnings, emotional distress, mental anguish, embarrassment, humiliation, loss of future advancement, and damage to her reputation in the

1 business community, in the amount of at least \$25,000.00, according to proof at the time of
2 trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an
3 unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment
4 interest accruing from the date of the filing of this action pursuant to California Civil Code §§
5 3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

6 126. As a direct, foreseeable and proximate result of Defendants' unlawful actions,
7 Plaintiff has been forced to hire attorneys to prosecute the claims alleged herein and has
8 incurred and is expected to continue to incur attorneys' fees. Pursuant to California
9 Government Code § 12965(b), Plaintiff requests the award of attorneys' fees against
10 Defendants.

11 **ELEVENTH CAUSE OF ACTION**
12 **Retaliation in Violation of FEHA**
13 **(Plaintiff against Defendants)**

14 127. Plaintiff hereby incorporates paragraphs 41 through 44 of this Complaint as if
15 fully alleged herein.

16 128. California Government Code § 12940(h) prohibits employers from retaliating
17 against employees who have opposed any practices forbidden under the FEHA.

18 129. Defendants retaliated against Plaintiff because she complained about conduct
19 forbidden under the FEHA, namely, having been subject to unlawful sexual harassment and
20 discrimination on the basis of her sex/gender.

21 130. As a proximate result of Defendants' retaliation against Plaintiff, Plaintiff has
22 suffered and continues to suffer compensatory damages, including without limitation, lost
23 wages, loss of future earnings and earning capacity, emotional distress, mental anguish,
24 embarrassment, humiliation, loss of future advancement, and damage. Plaintiff claims such
25 amounts as damages, together with prejudgment interest accruing from the date of the filing of
26 this action.

27 131. As a proximate result of Defendants' retaliation against Plaintiff, Plaintiff has
28 been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is
expected to continue to incur attorneys' fees. Pursuant to California Government Code §

1 12965(b), Plaintiff requests the award of attorney's fees against Defendants.

2 **TWELFTH CAUSE OF ACTION**
3 **Intentional Infliction of Emotional Distress**
4 **(Plaintiff against Defendants)**

5 132. Plaintiff hereby incorporates paragraphs 41 through 44 of this Complaint as if
6 fully alleged herein.

7 133. The conduct of Defendants, as set forth above was so extreme and outrageous
8 that it exceeded the boundaries of human decency and was beyond pale of conduct tolerated in
9 a civilized society. The outrageousness of the above-described conduct is amplified due to
10 Campos' abuse of his position with actual and apparent authority over Plaintiff, such as is
11 commonly found in employment relationships, and which is further amplified in this case
12 given Campos' authority as the General Manager. Defendants were aware that the unlawful
13 conduct would cause Plaintiff to suffer extreme emotional distress and other consequential
14 damages. Defendants' conduct was intended to cause severe emotional distress or was done in
15 reckless disregard of the probability of causing severe emotional distress to Plaintiff.

16 134. As an actual and proximate result of the wrongful conduct, Plaintiff has suffered
17 and continues to suffer severe and continuous humiliation, emotional distress, and physical
18 and mental pain and anguish, all to her damage in an amount according to proof at the time of
19 trial.

20 135. Defendants committed the acts alleged herein maliciously, fraudulently, and
21 oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and
22 evil motive amounting to malice and in conscious disregard of Plaintiff's rights. Because the
23 acts taken toward Plaintiff were carried out by Defendants acting in a deliberate, cold, callous,
24 and intentional manner in order to injure and damage Plaintiff, Plaintiff is entitled to recover
25 punitive damages in an amount according to proof.

26 136. As a direct, foreseeable and proximate result of the unlawful actions, Plaintiff
27 has suffered and continues to suffer substantial loss and damages including, loss of salary,
28 future advancement, bonuses, benefits, embarrassment, humiliation, and mental anguish in an
amount to be determined at trial.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of herself and on behalf of the Class Members prays as
3 follows:

- 4 1. For an order certifying this action as a class action and proposed Class;
- 5 2. For an order appointing Plaintiff as the representative of all the Class Members;
- 6 3. For an order appointing counsel for Plaintiff as Class Counsel.
- 7 4. As to the First and Second Cause of Action, for unpaid premium wages and
8 penalties pursuant to Labor Code §§ 210, 226.7, 512, 1198 and the Wage Order;
- 9 5. As to the Third Cause of Action, for unpaid wages, including minimum and
10 overtime wages, damages and/or penalties pursuant to Labor Code §§ 510, 558, 1194, 1197,
11 1197.1, and 1198, and the Wage Order;
- 12 6. As to the Fourth Cause of Action, for damages and/or penalties, attorneys' fees
13 and costs pursuant to Labor Code § 226(e) and the Wage Order;
- 14 7. As to the Fifth Cause of Action, for failing to pay all wages upon termination
15 pursuant to Labor Code §§ 201, 202, and 203;
- 16 8. As to the Sixth Cause of Action, for damages and/or penalties pursuant to Labor
17 Code §§ 2800, 2802, and the Wage Order;
- 18 9. As to the Seventh Cause of Action, for civil penalties and attorneys' fees
19 pursuant to Labor Code § 2698 et seq., and Labor Code § 226.3;
- 20 10. As to the Eighth Cause of Action, for restitution of unpaid wages and penalties
21 to Plaintiff, and for prejudgment interest from the day such amounts were due and payable
22 pursuant to Business and Professions Code § 17200 et seq.;
- 23 11. As to the Ninth, Tenth, Eleventh, and Twelfth Cause of Action, for special and
24 general damages, back pay, front pay, exemplary and punitive damages, prejudgment interest,
25 and attorneys' fees pursuant to Government Code § 12965(b);
- 26 12. As to All Causes of Action, for attorneys' fees and costs provided by Labor
27 Code §§ 218.5, 226, 1194 and Code of Civil Procedure § 1021.5; and
- 28 13. For such other and further relief as the Court may deem equitable and

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appropriate.

Dated: November 8, 2024

FITZPATRICK & SWANSTON

By: /s/ B. James Fitzpatrick
B. James Fitzpatrick
Alison L. Baker
Attorneys for Plaintiff,
Jasmin Jimenez on behalf of herself and
all similarly aggrieved employees

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EXHIBIT A



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

June 5, 2023

Jasmin Jimenez
c/o Fitzpatrick & Swanston, 555 S Main Street
Salinas, CA 93901

RE: Notice of Case Closure and Right to Sue
CRD Matter Number: 202306-20874805
Right to Sue: Jimenez / Sea House Salinas, LLC et al.

Dear Jasmin Jimenez:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective June 5, 2023 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Jasmin Jimenez

CRD No. 202306-20874805

Complainant,

vs.

Sea House Salinas, LLC
2557 Barrington Ct
Hayward, CA 94545

Omar Campos

,

Respondents

1. Respondent **Sea House Salinas, LLC** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Omar Campos** individual as Co-Respondent(s).

3. Complainant **Jasmin Jimenez**, resides in the City of **Salinas**, State of **CA**.

4. Complainant alleges that on or about **June 15, 2022**, respondent took the following adverse actions:

Complainant was harassed because of complainant's sex/gender, sexual harassment-hostile environment.

Complainant was discriminated against because of complainant's sex/gender and as a result of the discrimination was terminated, laid off, denied hire or promotion, denied any employment benefit or privilege.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment and as a result was terminated, laid off, denied hire or promotion, denied any employment benefit or privilege.

Additional Complaint Details: Complainant was hired by Respondent Sea House Salinas, LLC ("Sea House"), in April 2021, as a food server at Respondent's Bag O' Crab Restaurant in Salinas, California. Respondent Omar Campos ("Campos") regularly spoke inappropriately, in a sexually harassing and/or discriminatory manner towards Complainant. Campos called Complainant, "You dumb bitch." He spoke about her physical appearance inappropriately: "You're so skinny, do you eat?" Campos also told Complainant that a cook named Roberto had a crush on her, and Campos made Complainant physically hug Roberto. When Complainant spoke up to or resisted Campos, he took adverse employment actions against her. He cut her hours, he yelled at her, and he made her apologize to him. Campos' actions caused Complainant to feel distressed, humiliated, uncomfortable, and unsafe.

When Complainant spoke up to or resisted Campos' discrimination and harassment, he retaliated against her by treating her harshly and with more scrutiny than other employees. He cut her hours, and ultimately he fired her. He told her she was a "distraction" to the other employees and told her to "get the fuck out." Discrimination and Sexual Harassment were motivating factors in Respondents' termination of Complainant. Respondent also unlawfully retaliated against Complainant for engaging in protected activity (resisting discrimination or harassment).

Complainant's employment with Sea House ended on or about June 15, 2022, when she was wrongfully terminated by Respondent. Respondents' actions amounted to the wrongful termination of Complainant's employment in violation of the California Fair Employment and Housing Act, Govt. Code section 12940, et. seq.

1 VERIFICATION

2 I, **B. James Fitzpatrick**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On June 5, 2023, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Salinas, CA**
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On the date written below, I served the foregoing document(s), described as **SECOND AMENDED COMPLAINT FOR DAMAGES, PENALTIES AND FOR INJUNCTIVE RELIEF** on the interested parties in this action as indicated below and by the following means:

Marie Trimble Holvick (SBN: 257891)
Amber Eklof (SBN: 305750)
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SEA HOUSE SALINAS, LLC AND
OMAR CAMPOS

(BY ELECTRONIC SERVICE) Pursuant to CCP § 1010.6 and Cal. Rules of Court, Rule 2.251, I caused the document(s) to be served, addressed to the person(s) at the e-mail address(es) listed above. I did not receive within a reasonable time after e-service, any electronic message or other indication that e-service was unsuccessful.


Josie Favila