

DAVID YEREMIAN & ASSOCIATES, INC.

David Yeremian (SBN 226337)

david@yeremianlaw.com

Alvin B. Lindsay (SBN 220236)

alvin@yeremianlaw.com

2540 Foothill Blvd., Suite 201

La Crescenta, California 91214

Telephone: (818) 230-8380

Facsimile: (818) 230-0308

DAVTYAN LAW FIRM

Emil Davtyan (SBN 299363)

emil@davtyanlaw.com

400 N. Brand Blvd, Suite 700

Glendale, CA 91203

Telephone: (818) 875-2008

Facsimile: (818) 722-3974

Attorneys for Plaintiff ANGELA CASTILLO,

on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

ANGELA CASTILLO, an individual, on
behalf of herself and others similarly situated,

Plaintiff,

vs.

ROMANO'S – MISSION GROVE, INC., a
California corporation; ROMANO'S -
REDLANDS, INC., a California corporation;
ROMANO UNLIMITED, a California
corporation; ROMANO'S RESTAURANT
GROUP, LLC, a California limited liability
company; and DOES 1 through 50, inclusive,

Defendants.

Case No.: CVRI2300309

CLASS ACTION

Assigned for All Purposes To:

Hon. Harold W. Hopp

Dept.: 10

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Minimum Wages and for All Hours Worked;
2. Failure to Pay Wages and Overtime Under Labor Code § 510;
3. Meal Period Liability Under Labor Code § 226.7;
4. Rest-Break Liability Under Labor Code § 226.7;
5. Violation of Labor Code § 226(a)
6. Violation of Labor Code § 221;
7. Violation of Labor Code § 204;
8. Violation of Labor Code § 203;
9. Failure to Reimburse Necessary Business Expenses under Labor Code § 2802; and
10. Violation of Business & Professions Code § 17200 *et seq.*; and
11. Penalties under PAGA, Labor Code § 2698

Original Complaint Filed: January 20, 2023

Trial Date: None set

DEMAND FOR JURY TRIAL

1 Plaintiff ANGELA CASTILLO (hereinafter “Plaintiff”), on behalf of herself and all other
2 similarly situated non-exempt, hourly restaurant workers employed by Defendants in California
3 (collectively, “Employees”; individually, “Employee”) complains of Defendants, and each of
4 them, as follows:

5 **INTRODUCTION**

6 1. Plaintiff brings this action on behalf of herself and all current and former
7 Employees within the State of California who, at any time four (4) years prior to the filing of
8 this lawsuit, are or were employed as non-exempt, hourly employees by Defendants
9 ROMANO’S – MISSION GROVE, INC., a California corporation; ROMANO’S -REDLANDS,
10 INC., a California corporation; ROMANO UNLIMITED, a California corporation; ROMANO’S
11 RESTAURANT GROUP, LLC, a California limited liability company, and DOES 1 through 50
12 (all defendants being collectively referred to herein as “Defendants”). Plaintiff alleges that
13 Defendants, and each of them, violated various provisions of the California Labor Code, relevant
14 orders of the Industrial Welfare Commission (IWC), and California Business & Professions
15 Code, and seeks redress for these violations.

16 2. Plaintiff and the Class members worked as hourly, non-exempt restaurant
17 employees and in other similar and related positions for Defendants. Plaintiff, and upon
18 information and belief other similarly situated Employees, were required to perform various
19 restaurant services at Defendants’ restaurant locations throughout California. Plaintiff has
20 resided in Riverside County, California and was generally employed by Defendants throughout
21 her employment based out of Defendants’ restaurant there. She and the other similarly situated
22 Class members were generally asked to perform bartending and serving and similar and related
23 restaurant services tasks for Defendants’ customers and at the behest of Defendants and their
24 managers. She consistently worked without being paid all wages due and without being provided
25 all required breaks. More specifically, Plaintiff and the other similarly situated Class members
26 were employed by Defendants and (1) shared similar job duties and responsibilities (2) were
27 subjected to the same policies and practices (3) and endured similar violations at the hands of
28 Defendants as the other Employee Class members who served in similar and related positions.

1 3. Defendants required Plaintiff and the Employees in the Class to work off the
2 clock and failed to record accurate time worked by these Employees, failed to pay them at the
3 appropriate rates for all hours worked, failed to pay all wages due and owing at termination or
4 resignation, and provided Plaintiff and the Class members with inaccurate wage statements that
5 prevented them from learning of these unlawful pay practices. Defendants also failed to provide
6 Plaintiff and the Class with lawful meal and rest periods, as Employees were required to remain
7 under Defendants' control and were not provided with the opportunity to take full uninterrupted
8 and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable
9 paragraphs of the IWC Wage Orders.

10 4. Defendant ROMANO'S – MISSION GROVE, INC., a California corporation
11 with principal executive offices located on Canyon Crest Drive in Riverside, California. It was
12 listed as the employer on the wage statements issued to Plaintiff, and upon information and
13 belief other similarly situated Class members employed at Defendants' Romano's Mission
14 Grove restaurant location. Defendant ROMANO'S - REDLANDS, INC. is a California
15 corporation with principal executive offices at the same Canyon Crest Drive address in
16 Riverside. Upon information and belief, it was and is an employer of Class members at
17 Defendants' Romano's Redlands restaurant location in Redlands, California.

18 5. Defendant ROMANO'S RESTAURANT GROUP, LLC is or was a California
19 limited liability company with principal offices in California at the same Canyon Crest address
20 in Riverside. It is believed to be an operational entity, either as a separate limited liability
21 company or as fictitious business name or successor or related entity to one or more of the others
22 named Defendants. Upon information and belief, Defendant ROMANO'S RESTAURANT
23 GROUP, LLC also operates using the names Romano's Chicago Pizzeria, Ramano's Group or
24 Romano's Restaurant Group. Its website explains it has been proudly serving the Inland Empire
25 made from scratch food since 1999, and lists five restaurant locations under its operational
26 umbrella: Roman's Canyon Crest, Raincross Pub, Romano's Mission Grove, and Marisa's
27 Italian Deli in Riverside, California and Romano's Redlands in Redlands, California. Plaintiff's
28 personnel file includes an employee handbook which is for "Romano's Restaurant Group" and

1 Romano's Restaurant Group is thus listed on the policies and instructions Defendants provide to
2 Employees for the various restaurant locations under its operational control.

3 6. Defendant ROMANO'S UNLIMITED is a California corporation which also lists
4 its Principal Executive Offices at the Canyon Crest address in Riverside, California. It, along
5 with the other named Defendants, lists "Gary T Romano" as the company officers and directors,
6 and all also list a mailing address in Mission Viejo, California in Orange County. Upon
7 information and belief, ROMANO'S UNLIMITED is a parent company to the others named
8 Defendants or is otherwise an operational extension of them. Plaintiff contends that she and the
9 other Class members were jointly employed by ROMANO'S RESTAURANT GROUP, LLC
10 and RAMANO'S – MISSION GROVE, INC., ROMANO'S – REDLANDS, INC., and
11 ROMANO'S UNLIMITED, and that all entities exerted control over the Class members,
12 controlled their hours and working conditions, and operated under the same uniformly applied
13 policies and practices.

14 7. This Court has jurisdiction over this Action pursuant to California Code of Civil
15 Procedure § 410.10 and California Business & Professions Code § 17203. This Action is
16 brought as a Class Action on behalf of similarly situated Employees of Defendants pursuant to
17 California Code of Civil Procedure § 382. Venue as to Defendants is also proper in this judicial
18 district pursuant to California Code of Civil Procedure § 395 *et seq.* Upon information and
19 belief, the obligations and liabilities giving rise to this lawsuit occurred, at least in part in
20 Riverside County where Defendants operate and maintain restaurants and where Plaintiff and
21 other Class members were employed. Defendants are also headquartered in Riverside County.

22 8. The true names and capacities, whether individual, corporate, associate, or
23 whatever else, of the Defendants sued herein as Does 1 through 50, inclusive, are currently
24 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names under Code
25 of Civil Procedure § 474. Plaintiff is informed and believes and thereon alleges that Defendants
26 designated herein as Does 1 through 50, inclusive, and each of them, are legally responsible in
27 some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend
28 this Complaint to reflect the true names and capacities of the Defendants designated herein as

Does 1 through 50 when their identities become known.

9. Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, that Defendants carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants acted in all respects as the employers or joint employers of Employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of Employees, created and implemented the policies and practices that governed the employment of Plaintiff and the Class members and dictated their job duties and responsibilities, or otherwise suffered or permitted Plaintiff and the other Employee Class members to work, or engaged, thereby creating a common law employment relationship, with the Employee Class members. Therefore, Defendants, and each of them, employed or jointly employed the Employee Class members.

FACTUAL BACKGROUND

10. The Employees who comprise the Class, including Plaintiff, are non-exempt employees of Defendants pursuant to the applicable Wage Order of the Industrial Welfare Commission (“IWC”). Upon information and belief, their employment has not been governed under any collective bargaining agreements. During the period of four years prior to the filing of this action through its resolution, Plaintiff and the Class members were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular and overtime rates. Plaintiff also contends that Defendants failed to pay Plaintiff and the Class members all wages due and owing, including by requiring off the clock work, failed to provide meal and rest breaks, and failed to furnish accurate wage statements and timely pay all wages owed, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

11. During the course of Plaintiff and the Class members’ employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in “off the clock” work) and for all their overtime hours worked. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage

1 Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees
2 as restaurant workers at their restaurant locations in California.

3 12. Plaintiff was employed as a bartender by Defendants at the Mission Grove
4 restaurant and worked side by side with co-workers employed as servers, bar backs and bussers,
5 and in other similar and related positions. Plaintiff, and upon information and belief the other
6 Class members, were required to maintain an application on their cellular phone where they
7 were instructed to go to find work schedules and for other work related communications.
8 Plaintiff was generally scheduled to work shifts of eight hours per shift from 4:00 p.m. through
9 10:00 p.m., but generally worked more than those scheduled hours due to off the clock work
10 she was required to perform. She was scheduled to work four shifts per week, including
11 Saturdays and some Sundays. Given Defendants' practice of understaffing their locations,
12 Plaintiff worked more hours than she was scheduled, including hours worked before and after
13 her work shifts and during her breaks, which were consistently interrupted or not provided due
14 to work demands and understaffing.

15 13. In addition to being employed as a bartender, Plaintiff also worked as a server in
16 the bar area and assisted when needed in covering for or assisting servers. Class members
17 employed as servers, along with the others in similar and related restaurant services positions
18 such as bussers and kitchen staff, were subject to the same policies and practices dictated by
19 Defendants. In addition to their hourly pay, bartenders would share or pool tips with other
20 bartenders and servers would do so as well with other servers, and Plaintiff tipped out other
21 bartenders and bar backs and bussers and servers as appropriate and servers tipped out kitchen
22 staff based on a required percentage of sales.

23 14. The Class members therefore experienced similar violations at Defendants'
24 hands arising under uniformly applied policies. These included off the clock work in the form
25 of hours worked before and after scheduled shifts and during breaks. Plaintiff was required to
26 arrive at work before her scheduled shift start and store her personal items and conduct a shift
27 start up or transition with outgoing Employees. Towards the end and for completion of her
28 scheduled shifts, Plaintiff was required to clean up the bar area and tables and count and verify

1 money and count it for closing out the restaurant and bar sales and tips. She then had to put
2 money in the safe and lock up the restaurant or perform whatever other duties were necessary to
3 complete the day's work. Some of these tasks required by Defendants and customer demand
4 occurred before she clocked into Defendants' timekeeping system and after she clocked out for
5 the shift, resulting in off the clock work. In addition to this pervasive off the clock work,
6 Defendants' managers contacted Plaintiff by phone during off duty hours before and after her
7 shift hours to address work issues or scheduling or other job duty related items. She would also
8 receive text messages and had to call other employees to ask, answer and respond to questions.
9 Defendants also posted messages and information on the phone application and Plaintiff was
10 expected to check for and read these messages each day even when off duty. On some
11 occasions, Plaintiff was asked to come to the restaurant while off duty to address issues from
12 the prior shift, again without compensation.

13 15. Defendants' timekeeping system was a typical restaurant POS system, which
14 was also the same machine used for ringing up customers and inputting their orders. Plaintiff
15 would input her employee code and then check whether she was clocking in or out for her
16 shifts, and in theory also for her meal periods if and when she was permitted to take them. As
17 Defendants did not attempt to schedule or provide meal periods and rest breaks to Plaintiff,
18 upon information and belief her timekeeping records should not reflect any meal period time
19 punches, and any automatic deductions for meal periods would constitute further off the clock
20 work.

21 16. Plaintiff was therefore not paid for all her hours worked at the required
22 minimum, overtime and double time wage rates due to Defendants' policy and practice of
23 requiring her to work off the clock and without pay or to work through breaks, and Defendants
24 thus also failed to keep required records of hours worked. Defendants also failed to pay Plaintiff
25 at the required overtime rates for all hours over eight in a shift, or over forty in a work week.
26 With work shifts generally scheduled for eight hours or more, this unpaid off the clock work
27 resulted in Plaintiff and the Class members working past eight hours on a shift, which required
28 that they be paid at the correct overtime rate of 1.5 times their regular rate. Upon information

1 and belief, the Class members were bound by similar scheduling and work policies and endured
2 similar violations at Defendants' hands as Plaintiff.

3 17. Defendants have either failed to maintain timekeeping records for Plaintiff that
4 would permit Plaintiff to discover the nature and extent of the off the clock work Defendants
5 required and the actual hours Plaintiff worked or the breaks she received or have otherwise
6 declined to produce them to Plaintiff in response to a timely and lawful records request. By
7 failing to pay for all hours worked, and by rounding regular hours to the substantial detriment
8 of the Class members to conform generally to scheduled shift times, and by failing to record
9 any meal period beginning and ending times, Defendants have committed knowing and
10 intentional ongoing violations of the record keeping requirements under the Labor Code,
11 including section 1174. Additionally, to the extent Defendants paid overtime, it was underpaid
12 as addressed above or Defendants failed to include all forms of remuneration in the regular rate
13 used to calculate and pay overtime wages, thus resulting in further underpayment of wages
14 earned by Plaintiff and the Class members.

15 18. Therefore, from at least four years prior to the filing of this lawsuit and
16 continuing to the present, Defendants had a consistent policy or practice of failing to pay
17 Employees for all hours worked and failing to pay minimum wages for all time worked, as
18 required by California law. Also, from at least four years prior to the filing of this lawsuit and
19 continuing to the present, Defendants had a consistent policy or practice of failing to pay
20 Employees overtime compensation at premium overtime rates for all hours worked in excess of
21 eight hours a day and/or forty hours a week, and double-time rates for all hours worked in excess
22 of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC
23 Wage Orders.

24 19. Defendants also failed to provide Plaintiff and the Class members with their
25 required meal periods and the at least two ten-minute rest breaks required for scheduled shifts
26 of eight hours. The above described off the clock work and job requirements and understaffing
27 contributed to Defendants' common policy of failing to provide lawful meal periods to Plaintiff
28 and the Class members, as required under the Labor Code and Paragraph 11 of the IWC Wage

1 Order(s). Defendants similarly systematically failed to authorize and permit Plaintiff and the
2 employee Class Members to take all required 10-minute rest breaks, as required under the
3 Labor Code and Paragraph 12 of the IWC Wage Order(s).

4 20. Plaintiff and the Class members generally worked shifts that entitled them to
5 receive at least one meal period and two rest breaks. However, Defendants failed to provide all
6 required meal periods and rest breaks to them. Defendants' uniformly applied policies and
7 practices systematically failed to provide required duty-free meal periods to Plaintiff and the
8 Class members, and Defendants did not even attempt to schedule meal periods. Instead, due to
9 job demand and understaffing, they were never taken or they were taken well after five hours
10 into a work shift or were otherwise shortened unlawfully, including by requiring Plaintiff and
11 the Class members to remain under Defendants' control and respond to work demands. If and
12 when Class members were able to attempt to take a meal break, they were not duty-free.
13 Defendants therefore failed to provide meal periods, provided them untimely, or else provided
14 impermissibly shortened meal periods where employees remained on-call to perform duties
15 when needed and had to hurry back to work. Upon information and belief, the Class members
16 endured similar meal period violations at Defendants' hands. On the occasions when Plaintiff
17 and the Class members worked over ten hours on a shift, Defendants failed to provide them
18 with a second uninterrupted and duty-free and timely meal period.

19 21. Defendants thus followed a uniformly applied policies of not providing all
20 required meal periods to their Employees. Meal periods were often not provided at all during a
21 work shift, as work and production demands and management pressure required Employees to
22 work through breaks or to take them well after five hours of work on a shift. However, even
23 when Plaintiff and the Class members were able to take a meal period, it was provided for less
24 than the required time or was otherwise interrupted by work duties, and Employees were not
25 free to leave the property premises during breaks and were required to respond to customer
26 demands and manager inquiries and instructions during breaks. Additionally, as addressed
27 above, Defendants followed a practice of requiring off the clock work, in a manner that would
28 impact when Employees were to receive meal periods and rest breaks and lead to violations.

1 22. As a result, Defendants' failure to provide Plaintiff and the Class members with
2 all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
3 periods is and will be evidenced by Defendants' business records, or lack thereof. Defendants
4 have either failed to maintain required records of when meal periods were actually provided or
5 failed to produce them in response to Plaintiff's timely and lawful requests, or else maintained
6 inaccurate and incomplete records. Defendants also failed to pay Employees "premium pay," i.e.
7 one hour of wages at each Employee's effective hourly rate of pay, for each meal period or rest
8 break that Defendants failed to provide or deficiently provided. Upon information and belief, if
9 and when Defendants did pay any meal period premiums, they failed to include all forms of
10 remuneration in the regular rate used to calculate and pay it.

11 23. Therefore, for at least four years prior to the filing of this action and through to
12 the present, Plaintiff and the Class members were unable to take off-duty breaks or were
13 otherwise not provided with the opportunity to take required meal breaks due to Defendants'
14 policies and practices. On the occasions when Plaintiff and the Class members were provided
15 with a meal period, it was often untimely or interrupted, or was impermissibly shortened, and
16 Employees were not provided with one hour's wages in lieu thereof. Meal period violations thus
17 occurred in one or more of the following manners:

- 18 (a) Class members were not provided full thirty-minute duty free meal periods
19 for work days in excess of five hours and were not compensated one hour's
20 wages in lieu thereof, all in violation of, among others, Labor Code §§
21 226.7, 512, and the applicable Industrial Welfare Commission Wage
22 Order(s);
- 23 (b) Class members were not provided second full thirty-minute duty free meal
24 periods for work days in excess of ten hours;
- 25 (c) Class members were required to work through at least part of their daily
26 meal period(s);
- 27 (d) Meal periods were provided after five hours of continuous work during a
28 shift; and

1 (e) Class members were restricted in their ability to take a full thirty-minute
2 meal period or were otherwise required to remain under Defendants'
3 control during meal periods.

4 24. Defendants also failed to authorize and permit Plaintiff and the Class members to
5 take duty-free, net ten minute rest breaks for every four hours of shift work, or major fraction
6 thereof. There were similar issues with the required net-ten-minute rest breaks that Plaintiff and
7 the Class members were unable to take as with meal periods. This was exacerbated by the fact
8 that Defendants made no efforts to schedule and otherwise authorize and permit Plaintiff and
9 the Class members to take their required ten minute rest breaks. Defendants also failed to
10 authorize and permit Plaintiff and the Class members to take their required duty-free, net ten-
11 minute rest periods. As rest breaks were not scheduled, Defendants' policy was not to provide
12 them, and management did not emphasize the requirement to provide at least one ten-minute
13 duty-free rest period for each four-hour duty period, or major fraction thereof. If and when
14 Plaintiff was permitted to take a ten-minute rest break on a shift, she was not permitted to take a
15 second one or a third one or any breaks were untimely or impermissibly shortened.

16 25. Therefore, the job requirements and duties required of Plaintiff and the Class
17 members, and the demands from their managers, manifested a failure to authorize and permit
18 Class members to take all their required rest breaks. Plaintiff and the other similarly situated
19 Class members were either not authorized permitted the opportunity to take a rest break, or
20 were required to remain under Defendants' control and respond to instructions. Defendants also
21 failed to authorize and permit Employees to leave the property premises during rest breaks, or
22 else prevented them from doing so, thus further evidencing Defendants' policy and practice of
23 requiring Plaintiff and the Class members to remain under their control during required off-duty
24 rest breaks.

25 26. Defendants' policies and practices thus systematically deny and denied Plaintiff
26 and the Class members full, duty-free ten-minute rest periods and thirty-minute, duty-free meal
27 periods. The California Supreme Court has instructed that the rest period requirement obligates
28 employers to permit and authorize employees to take-off-duty rest periods. That is, during rest

1 periods employers must relieve employees of all duties and relinquish control over how
2 employees spend their time. Plaintiff and the Class members were and are under Defendants'
3 control when they are working through rest breaks, and Defendants failed to schedule or
4 account for required first, second, and third rest breaks during the shifts Plaintiff and the Class
5 members generally worked.

6 27. Plaintiff and the Employees in the Class were also not authorized and permitted to
7 take lawful rest periods, were systematically required by Defendants to work through or during
8 breaks, and were not provided with one hour's wages in lieu thereof. They were required to
9 remain on duty during breaks or portions of their breaks, thus making them either untimely or
10 shortened and on-duty, and they were also prevented from leaving the premises during rest
11 breaks under Defendants' policies and practices. Rest period violations therefore arose in one or
12 more of the following manners:

13 (a) Class members were required to work without being provided a minimum
14 ten minute rest period for every four hours or major fraction thereof
15 worked and were not compensated one hour of pay at their regular rate of
16 compensation for each workday that a rest period was not provided, and to
17 the extent Defendants paid any premiums, they failed to include all forms
18 of remuneration in the regular rate used to calculate and pay them.

19 (b) Class members were not authorized and permitted to take timely rest
20 periods for every four hours worked, or major fraction thereof; and

21 (c) Class members were required to remain on duty and under Defendants'
22 control during rest periods or otherwise had their rest periods interrupted
23 by work demands.

24 28. From at least four years prior to the filing of this lawsuit and continuing to the
25 present, Defendants have also consistently violated Labor Code § 221 by unlawfully collecting
26 or deducting the Employees' earned wages, including by the above described off the clock work
27 before and after work shifts and to the extent they deducted hours for unpaid meal periods
28 Defendants failed to provide. By not compensating Employees for all hours worked, and not

1 recording any break times or permitting off-duty breaks, Defendants unlawfully deducted wages
2 earned by and owed to Plaintiff and the Class members, in violation of Labor Code § 221.

3 29. As a result of the above described illegal policies and practices, Defendants
4 engaged in and enforced the following additional unlawful practices and policies against
5 Plaintiff and the Class members she seeks to represent:

- 6 a. failing to pay all wages owed to Class members who either were discharged, laid
7 off, or resigned in accordance with the requirements of Labor Code §§ 201, 202,
8 203;
- 9 b. failing to pay all wages owed to the Class members twice monthly in accordance
10 with the requirements of Labor Code § 204;
- 11 c. failing to pay Class members all wages owed, including all meal and rest period
12 premium wages;
- 13 d. failing to maintain accurate records of Class members' earned wages and meal
14 periods in violation of Labor Code §§ 226 and 1174(d) and section 7 of the
15 applicable IWC Wage Orders; and
- 16 e. failing to produce timekeeping records in response to Plaintiff's timely and lawful
17 request to receive them under these authorities.

18 30. From at least four years prior to the filing of this lawsuit, and continuing to the
19 present, Defendants have also consistently failed to provide Employees with timely, accurate,
20 and itemized wage statements, in writing, as required by California wage-and-hour laws,
21 including by the above-described requirement of off the clock work, failure to pay all overtime,
22 and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks.
23 Defendants have also made it difficult to account with precision for the unlawfully withheld
24 wages and meal and rest period compensation owed to Plaintiff and the Class, during the
25 liability period, because they did not implement and preserve a record-keeping method as
26 required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7
27 of the applicable California Wage Orders. Upon information and belief, time clock punches were
28 not maintained or were not accurately maintained for work shifts and meal periods. Defendants

1 also failed to accurately record and pay for all regular and overtime hours worked by Plaintiff
2 and the Class members.

3 31. Defendants also provided Plaintiff and the Class members with wage statements
4 that failed to accurately report all hours worked and applicable hourly rates for all hours worked,
5 including by reflecting rounded hours to the Employees' detriment and otherwise requiring off
6 the clock work. Plaintiff and the Employees in the Class were unable to discern from their wage
7 statements alone the actual hours they worked in total during a pay period and the rates they
8 were paid for those hours worked. The wage statements failed to include the total hours worked,
9 and made it difficult for Class members to calculate this number. As Plaintiff and the Class
10 members were not provided with the opportunity to review their timekeeping punch records for
11 the shifts in the pay period before Defendants ran payroll for it, Class members had no way of
12 knowing if they were actually paid for all their hours worked.

13 32. Defendants have thus also failed to comply with Labor Code § 226(a) by issuing
14 wage statements that inaccurately reported total hours worked and total wages earned by
15 Plaintiff and the Class members, along with the appropriate applicable rates, and failed to list the
16 correct employer's name and address, among other requirements. Plaintiff and Class members
17 are therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor
18 Code § 226(b). Defendants have also failed to comply with paragraph 7 of the applicable
19 California IWC Wage Orders by failing to maintain time records showing when the employee
20 begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7,
21 and total daily hours worked by itemizing in wage statements all deductions from payment of
22 wages and accurately reporting total hours worked by the Class members.

23 33. Defendants required Plaintiff and the Class members to work hours off the clock
24 for which they were not compensated, and Defendants also failed to pay all overtime premium
25 wages owed for work conducted on a work shift and a workday, as addressed above. Therefore,
26 from at least three or four years prior to filing this lawsuit and continuing to the present,
27 Defendants have also followed a uniform and consistent policy of failing to pay all wages owed
28 to Plaintiff and other similarly situated Employees at the time of their termination or within

seventy-two hours of their resignation, as required by California wage-and-hour laws.

Defendants also failed to pay all wages owed to those Class members at the time they were terminated or otherwise separated from employment. Defendants also listed the Canyon Crest address in Riverside on wage statements issued to Plaintiff, but Plaintiff was unaware of that address or who worked there and it was not the address for the restaurant where she worked.

34. Additionally, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants have regularly required Plaintiff and the Class members to incur necessary business expenses in the course of performing their required job duties without reimbursement. Defendants required Plaintiff and the Class members to use their cellular phones to conduct work related business and to receive scheduling and assignments and to use an application for messaging and the like. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

35. In light of the foregoing, Plaintiff and the Employees in the Class bring this action pursuant to, *inter alia*, Labor Code §§ 201, 202, 203, 204, 218, 218.5, 218.6, 221, 226, 226.7, 510, 511, 512, 558, 1174, 1185, 1194, 1194.2, 1197, 2802, and 2698 *et seq.* and California Code of Regulations, Title 8, section 11000 *et seq.*

36. Furthermore, pursuant to Business and Professions Code §§ 17200-17208, Plaintiff and the Class members seek injunctive relief, restitution, and disgorgement of all benefits Defendants have enjoyed from their violations of Labor Code and the other unfair, unlawful, or fraudulent practices alleged in this Complaint.

CLASS ALLEGATIONS

37. Plaintiff brings this class action on behalf of herself and all others similarly situated pursuant to Code of Civil Procedure § 382. Plaintiff seeks to represent a Class (or “the Class” or “Class members”) defined as follows: “All individuals employed by Defendants at any time during the period of four (4) years prior to the filing of this lawsuit and ending on a date as determined by the Court (“the Class Period”), and who have been employed as non-exempt, hourly restaurant employees at Defendants’ properties within the State of California.” Further,

Plaintiff seeks to represent the Subclasses composed of and defined as follows:

- a. Subclass 1. Minimum Wages Subclass. All Class members who were not compensated for all hours worked for Defendants at the applicable minimum wage.
- b. Subclass 2. Wages and Overtime Subclass. All Class members who were not compensated for all hours worked for Defendants at the required rates of pay, including for all hours worked in excess of eight in a day and/or forty in a week.
- c. Subclass 3. Meal Period Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of pay at the Employee's regular rate of pay in lieu thereof.
- d. Subclass 4. Rest Break Subclass. All Class members who were subject to Defendants' policy and/or practice of failing to authorize and permit Employees to take uninterrupted, duty-free, 10-minute rest periods for every four hours worked, or major fraction thereof, and failing to pay one hour of pay at the Employee's regular rate of pay in lieu thereof.
- e. Subclass 5. Wage Statement Subclass. All Class members who, within the applicable limitations period, were not provided with accurate itemized wage statements.
- f. Subclass 6. Unauthorized Deductions from Wages Subclass. All Class members who were subject to Defendants' policy and/or practice of deducting wages earned from their pay, including by requiring off the clock work.
- g. Subclass 7. Failure to Timely Pay Wages Twice Monthly Subclass. All Class members who were subject to Defendants' policy and practice of not timely paying all wages earned when they were due and payable at least twice monthly.
- h. Subclass 8. Termination Pay Subclass. All Class members who, within the applicable limitations period, either voluntarily or involuntarily separated from their employment and were subject to Defendants' policy and/or practice of failing to timely pay wages upon termination.
- i. Subclass 9. Expense Reimbursement Subclass. All Class members who incurred necessary and reasonable expenses in connection with performing their job duties for Defendants and who were subject to a policy and/or practice under which such expenses were not reimbursed.

1 j. Subclass 10. UCL Subclass. All Class members who are owed restitution as a
2 result of Defendants' business acts and practices, to the extent such acts and practices are found to
3 be unlawful, deceptive, and/or unfair.

4 38. Plaintiff reserves the right under California Rule of Court 3.765 to amend or
5 modify the class description with greater particularity or to provide further division into
6 subclasses or limitation to particular issues. To the extent equitable tolling operates to toll claims
7 by the Class against Defendants, the Class Period should be adjusted accordingly.

8 39. Defendants, as a matter of company policy, practice and procedure, and in
9 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
10 requirements, and the applicable provisions of California law, intentionally, knowingly, and
11 willfully, engaged in a practice whereby Defendants failed to correctly calculate and pay
12 compensation for the time worked by Plaintiff and the other members of the Class, even though
13 Defendants enjoyed the benefit of this work, required Employees to perform this work and
14 permitted or suffered to permit this work. Defendants have uniformly denied these Class
15 members wages to which these employees are entitled, and failed to provide meal periods or
16 authorize and permit rest periods, in order to unfairly cheat the competition and unlawfully
17 profit.

18 40. This action has been brought and may properly be maintained as a class action
19 under the provisions of Code of Civil Procedure § 382 because there is a well-defined
20 community of interest in this litigation and the proposed Class is easily ascertainable from the
21 employment records for Plaintiff and the Class members that Defendants are required to
22 maintain under California law.

23 **A. Numerosity**

24 41. The potential members of the Class as defined are so numerous that joinder of all
25 the Class members is impracticable. While the precise number of Class member has not been
26 determined at this time, Plaintiff is informed and believes that Defendants employ or, during the
27 time period relevant to this lawsuit employed, at least 100 Employees who satisfy the Class
28 definition within the State of California. Plaintiff alleges that Defendants' employment records

will provide information as to the number and location of all Class members.

B. Commonality

42. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. The common questions are numerous and substantial and flow from Defendants' uniform policies and/or practices of violating the California Labor Code addressed above. As such, these common questions predominate over individual questions concerning each individual Class Member's showing as to her or her eligibility for recovery or as to the amount of damages. These common questions of law and fact include:

- a. Whether Defendants failed to pay Employees minimum wages;
- b. Whether Defendants failed to pay Employees wages for all hours worked;
- c. Whether Defendants failed to pay Employees overtime as required under Labor Code § 510;
- d. Whether Defendants violated Labor Code §§ 226.7 and 512, and the applicable IWC Wage Orders, by failing to provide Employees with requisite meal periods or premium pay in lieu thereof;
- e. Whether Defendants violated Labor Code §§ 226.7, and the applicable IWC Wage Orders, by failing to authorize and permit Employees to take requisite rest breaks or provide premium pay in lieu thereof;
- f. Whether Defendants violated Labor Code § 226(a) by providing Employees with inaccurate wage statements and wage statements that omitted many of the Section 226(a) requirements.
- g. Whether Defendants violated Labor Code § 221;
- h. Whether Defendants violated Labor Code §§ 201, 202, and 203 by failing to pay wages and compensation due and owing at the time of termination of employment;
- i. Whether Defendants' conduct was willful;
- j. Whether Defendants violated Labor Code § 226 and § 1174 and the IWC Wage Orders by failing to maintain accurate records of earned wages and work periods;

- 1 k. Whether Defendants violated Labor Code § 1194 by failing to compensate all
2 Employees during the relevant time period for all hours worked, whether regular or
3 overtime;
- 4 l. Whether Defendants violated Labor Code § 204 by failing to pay Employees all
5 wages earned at least twice monthly;
- 6 m. Whether Defendants violated Labor Code § 2802 by failing reimburse necessary
7 business expenses incurred by Employees;
- 8 n. Whether Defendants violated Business and Professions Code § 17200 *et seq.*; and
- 9 o. Whether Employees are entitled to equitable relief pursuant to Business and
10 Professions Code § 17200 *et seq.*

11 **C. Typicality**

12 43. The claims of the named Plaintiff are typical of those of the other Employees.
13 The Employee Class members all sustained injuries and damages arising out of and caused by
14 Defendants' common course of conduct and uniformly applied policies in violation of statutes,
15 as well as regulations, that have the force and effect of law, as alleged herein. Plaintiff's claims
16 for the off the clock work and meal and rest violations they were required to endure are typical
17 of those of the other Class members.

18 **D. Adequacy of Representation**

19 44. Plaintiff will fairly and adequately represent and protect the interest of the
20 Employee Class members. Counsel who represents Plaintiff and the Employees in the Class are
21 experienced and competent in litigating employment class actions.

22 **E. Superiority of Class Action**

23 45. A class action is superior to other available means for the fair and efficient
24 adjudication of this controversy. Individual joinder of all Employees is not practicable, and
25 questions of law and fact common to all Employees predominate over any questions affecting
26 only individual Employees. Each Employee in the Class has been damaged and is entitled to
27 recovery by reason of Defendants' illegal policies or practices of failing to compensate
28 Employees properly.

1 46. As to the issues raised in this case, a class action is superior to all other methods
2 for the fair and efficient adjudication of this controversy, as joinder of all Class members is
3 impracticable and many legal and factual questions to be adjudicated apply uniformly to all
4 Class members. Further, as the economic or other loss suffered by vast numbers of Class
5 members may be relatively small, the expense and burden of individual actions makes it difficult
6 for the Class members to individually redress the wrongs they have suffered. Moreover, in the
7 event disgorgement is ordered, a class action is the only mechanism that will permit the
8 employment of a fluid fund recovery to ensure that equity is achieved. There will be relatively
9 little difficulty in managing this case as a class action, and proceeding on a class-wide basis will
10 permit Employees to vindicate their rights for violations they endured which they would
11 otherwise be foreclosed from receiving in a multiplicity of individual lawsuits that would be cost
12 prohibitive to them.

13 47. Class action treatment will allow those persons similarly situated to litigate their
14 claims in the manner that is most efficient and economical for the parties and the judicial system.
15 Plaintiff is unaware of any difficulties in managing this case that should preclude class
16 treatment. Plaintiff contemplates the eventual issuance of notice to the proposed Class members
17 that would set forth the subject and nature of the instant action. The Defendants' own business
18 records can be utilized for assistance in the preparation and issuance of the contemplated notices.
19 To the extent that any further notice is required additional media and/or mailings can be used.

20 48. Defendants, as prospective and actual employers of the Employees in the Class,
21 had a special fiduciary duty to disclose to prospective Class members the true facts surrounding
22 Defendants' pay practices, policies and working conditions imposed upon the similarly situated
23 Employees as well as the effect of any alleged arbitration agreements that may have been forced
24 upon them. In addition, Defendants knew they possessed special knowledge about pay practices
25 and policies, most notably intentionally refusing to pay for all hours actually worked which
26 should have been recorded in Defendants' pay records and the consequence of the alleged
27 arbitration agreements and policies and practices on the Employees and Class as a whole.

28 ///

49. Plaintiff and the Employees in the Class did not discover the fact that they were entitled to all pay under the Labor Code until shortly before the filing of this lawsuit nor was there any discussion about Plaintiff's and the Class' waiver of their Constitutional rights of trial by jury, to collectively organize and oppose unlawful pay practices under California law as well as obtain injunctive relief preventing such practices from continuing. As a result, the applicable statutes of limitation tolled until such time as Plaintiff and the Class members discovered their claims.

FIRST CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Against All Defendants)

50. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

51. Defendants failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants' control and during breaks and due to the work demands placed upon them by Defendants' management and customers. Defendants also imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Class members and understaffed shifts, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant Class Period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Class members, including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Class as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other members of the Class as to minimum wage pay.

52. In California, employees must be paid at least the then applicable state minimum wage for all hours worked, including under Labor Code § 1197, IWC Wage Order MW-2014,

1 and paragraphs 2(K), 2(S), and 4(A)-4(C) of the applicable IWC Wage Orders. Paragraph 2(H)
2 of the applicable IWC Wage Orders defines “Hours Worked” as “the time during which an
3 employee is subject to the control of an employer and includes all the time the employee is
4 suffered or permitted to work, whether or not required to do so.” Additionally, pursuant to
5 Labor Code § 204, other applicable laws and regulations, and public policy, an employer must
6 timely pay its employees for all hours worked. Defendants failed to do so.

7 53. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage”
8 states: “The minimum wage for employees fixed by the commission is the minimum wage to
9 be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

10 54. The applicable minimum wage rate fixed by the commission for work during the
11 relevant period is found in the Wage Orders.

12 55. The minimum wage provisions of California Labor Code are enforceable by
13 private civil action pursuant to Labor Code § 1194(a) which states: “Notwithstanding any
14 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage
15 or the legal overtime compensation applicable to the employee is entitled to recover in a civil
16 action the unpaid balance of the full amount of this minimum wage or overtime compensation,
17 including interest thereon, reasonable attorney’s fees and costs of suit.”

18 56. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
19 incorporates the applicable Wage Order of the California Industrial Welfare Commission. Also,
20 California Labor Code §§ 1194, 1197, 1197.1 and those Industrial Welfare Commission Wage
21 Orders entitle non-exempt employees to an amount equal to or greater than the minimum wage
22 for all hours worked. All hours must be paid at the statutory or agreed rate, or at the minimum
23 rate in the absence of a contractually agreed upon one. The underpayment of wages to Plaintiff
24 and the Class members is and has been a direct consequence of Defendants’ unlawful
25 compensation policies and practices, which applied uniformly to the Class members working at
26 locations and work sites throughout California.

27 57. In committing the above-described violations of the California Labor Code,
28 Defendants inaccurately recorded, or required Plaintiff and the Class members to input times

1 that did not reflect their actual hours worked, or calculated the correct time worked and
2 consequently underpaid the actual time worked by Plaintiff and other members of the Class,
3 including by requiring off the clock work and rounding and refusing to pay all incurred
4 overtime, as addressed in detail above. Defendants acted in an illegal attempt to avoid the
5 payment of all earned wages, and other benefits in violation of the California Labor Code, the
6 Industrial Welfare Commission requirements and other applicable laws and regulations. As a
7 result of these violations, Defendants also failed to timely pay all wages earned in accordance
8 with California Labor Code § 1194.

9 58. California Labor Code § 1194.2 also provides for the following remedies: “In any
10 action under Section 1194 . . . to recover wages because of the payment of a wage less than the
11 minimum wages fixed by an order of the commission, an employee shall be entitled to recover
12 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

13 59. In addition to restitution for all unpaid wages, pursuant to California Labor Code
14 § 1197.1, Plaintiff and Class members are entitled to recover a penalty of \$100.00 for the initial
15 failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to
16 pay each employee minimum wages.

17 60. Pursuant to California Labor Code § 1194.2, Plaintiff and Class members are
18 further entitled to recover liquidated damages in an amount equal to wages unlawfully unpaid
19 and interest thereon.

20 61. Defendants have the ability to pay minimum wages for all time worked and have
21 willfully refused to pay such wages with the intent to secure for Defendants a discount upon this
22 indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Employees.

23 62. Wherefore, Plaintiff and the Employee Class members are entitled to recover the
24 unpaid minimum wages (including double minimum wages), liquidated damages in an amount
25 equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees
26 and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other members
27 of the Class further request recovery of all unpaid wages, according to proof, interest, statutory
28 costs, as well as the assessment of any statutory and/or civil penalties against Defendants, in a

1 sum as provided by the California Labor Code, including § 558, and/or other applicable statutes.
2 To the extent minimum wage compensation is determined to be owed to the Class members who
3 have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or
4 202, and therefore these individuals are also be entitled to waiting time penalties under
5 California Labor Code § 203, which penalties are sought herein on behalf of these Class
6 members. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 for
7 failure to pay all wages owed twice monthly and resulted in violations of Labor Code § 226
8 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as
9 alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Class
10 members are entitled to seek and recover statutory costs.

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO PAY WAGES AND OVERTIME UNDER LABOR CODE § 510**

13 **(Against All Defendants)**

14 63. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth
15 in full herein.

16 64. California Labor Code § 1194 provides that "any employee receiving less than
17 the legal minimum wage or the legal overtime compensation applicable to the employee is
18 entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage
19 or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of
20 suit." The action may be maintained directly against the employer in an employee's name
21 without first filing a claim with the Division of Labor Standards and Enforcement.

22 65. By their conduct, as set forth herein, Defendants violated Labor Code § 1194 and
23 Labor Code § 510 (and paragraphs 2(K), 2(S), 3(A) and 4(A)-4(B) of the relevant orders of the
24 Industrial Welfare Commission) by failing to pay Employees for all hours worked, including: (a)
25 time and one-half their regular hourly rates for hours worked in excess of eight hours in a
26 workday or in excess of forty hours in any workweek or for the first eight hours worked on the
27 seventh day of work in any one workweek; or (b) twice their regular rate of pay for hours
28 worked in excess of twelve hours in any one day or for hours worked in excess of eight hours on

1 any seventh day of work in a workweek. Defendants had a consistent policy of not paying
2 Employees wages for all hours worked, including by requiring off the clock work and rounding
3 as addressed above and by under-reporting actual hours worked. With work shifts generally
4 being scheduled for eight hours or more, this unpaid off the clock work resulted in Plaintiff and
5 the Class members working past eight hours on a shift, which required that they be paid at the
6 correct overtime rate of 1.5 times their regular rate.

7 66. Defendants thus had a consistent policy of not paying Employees wages for all
8 hours worked, including hours at their required regular, overtime, and double-time rates.
9 Defendants required Plaintiff and the Class members to work off the clock to avoid paying all
10 their earned and owed straight time and overtime wages and other benefits, in violation of the
11 California Labor Code, the California Code of Regulations and the IWC Wage Orders and
12 guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also
13 violated these provisions by requiring Plaintiff and other similarly situated non-exempt
14 employees to work through meal periods when they were required to be clocked out or to
15 otherwise work off the clock to complete their daily job duties or to attend and participate in
16 company required activities or remain under Defendants' control. Therefore, Employees were
17 not properly compensated, nor were they paid overtime rates for hours worked in excess of eight
18 hours in a given day, and/or forty hours in a given week. Based on information and belief,
19 Defendants did not make available to Employees a reasonable protocol for correcting time
20 records when Employees worked overtime hours or to fix incorrect time entries or those that
21 Defendants unlawfully under-recorded to the Employee's detriment, as Defendants required time
22 records to generally reflect scheduled shift times. Defendants also under-paid Plaintiff and the
23 putative Class members all wages by systematically miscalculating and underpaying overtime
24 wages they earned, as detailed above.

25 67. Defendants' failure to pay Plaintiff and the Class members the unpaid balance of
26 regular wages owed and overtime compensation for all hours worked, as required by California
27 law, violates the provisions of Labor Code §§ 510 and 1198 and paragraph 3(A) of the
28 applicable IWC Wage Order, and is therefore unlawful.

68. Additionally, Labor Code § 558(a) provides “any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee.” Labor Code § 558(c) states, “the civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” Defendants have violated provisions of the Labor Code regulating hours and days of work as well as the IWC Wage Orders. Accordingly, Plaintiff and the Class members seek the remedies set forth in Labor Code § 558.

69. Defendants’ failure to pay compensation in a timely fashion also constituted a violation of California Labor Code § 204, which requires that all wages shall be paid semimonthly. From four (4) years prior to the filing of this lawsuit to the present, in direct violation of that provision of the California Labor Code, Defendants have failed to pay all wages and overtime compensation earned by Employees. Each such failure to make a timely payment of compensation to Employees constitutes a separate violation of California Labor Code § 204.

70. Employees have been damaged by these violations of California Labor Code §§ 204 and 510 (and the relevant orders of the Industrial Welfare Commission). Additionally, under Labor Code § 1199(a)-(c), it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing Employees “to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission” or if the employer pays “a wage less than the minimum fixed by an order of the commission” or “violates...any provision of this chapter or any order or ruling of the commission.”

///

1 71. Consequently, pursuant to the California Labor Code, including Labor Code §§
2 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders,
3 including paragraphs 2(K), 2(S), 3(A), 4, and 20, Defendants are liable to Employees for the
4 full amount of all their unpaid wages and overtime compensation for all their hours worked,
5 with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any
6 statutory penalties against Defendants, and each of them, and any additional sums as provided
7 by the Labor Code and/or other statutes.

8 **THIRD CAUSE OF ACTION**

9 **MEAL-PERIOD LIABILITY UNDER LABOR CODE § 226.7**

10 **(Against All Defendants)**

11 72. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth
12 in full herein.

13 73. Employees regularly worked shifts greater than five hours and in some instances,
14 greater than ten hours. Pursuant to Labor Code § 512, and paragraph 11 of the applicable IWC
15 Wage Order, an employer may not employ someone for a shift of more than five hours without
16 providing him or her with a meal period of not less than thirty minutes or for a shift of more than
17 ten hours without providing him or her with a second meal period of not less than thirty minutes.

18 74. Defendants failed to provide Employees with meal periods as required under the
19 Labor Code and paragraph 11 of the applicable IWC Wage Order. Employees were not provided
20 with meal periods or were required to work or to otherwise remain under Defendants' control
21 during meal periods, or Defendants provided them after Employees worked beyond the fifth
22 hour of their shifts or Employees otherwise had them shortened and interrupted by work
23 demands and requirements to remain under Defendants' control during off the clock time.
24 Furthermore, upon information and belief, on the occasions when Employees worked more than
25 ten hours in a given shift, they did so without receiving a second uninterrupted thirty-minute
26 meal period as required by law.

27 ///

28 ///

75. Defendants thus failed to provide Plaintiff and the Class members with meal periods as required by the Labor Code and paragraph 11 of the applicable IWC Wage Order, including by not providing them with the opportunity to take meal breaks, by providing them late or for less than thirty minutes, or by requiring them to perform work during breaks.

76. Moreover, Defendants failed to compensate Employees for each meal period not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Orders, which provide that, if an employer fails to provide an employee a meal period in accordance with this section, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. Defendants failed to compensate the Employees in the Class for each meal period not provided or inadequately provided, as required under Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order.

77. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Employees in the Class are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, a sum to be proven at trial, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code and other statutes and applicable IWC Wage Order paragraphs.

FOURTH CAUSE OF ACTION

REST-BREAK LIABILITY UNDER LABOR CODE § 226.7

(Against All Defendants)

78. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

79. Labor Code §§ 226.7 and paragraph 12 of the applicable IWC Wage Orders provide that employers must authorize and permit all employees to take rest periods at the rate of ten minutes net rest time per four work hours.

///

///

1
2 80. Employees consistently worked consecutive four hour shifts and were generally
3 scheduled for shifts of greater than 3.5 hours total, thus requiring Defendants to authorize and
4 permit them to take rest periods. Pursuant to the Labor Code and paragraph 12 of the applicable
5 IWC Wage Order, Employees were entitled to paid rest breaks of not less than ten minutes for
6 each consecutive four hour shift, and Defendants failed to provide Employees with timely rest
7 breaks of not less than ten minutes for each consecutive four hour shift. Defendants made no
8 efforts to authorize and permit rest breaks or otherwise schedule them, and Employees were
9 often required to work or to otherwise remain under Defendants' control during rest periods, and
10 had breaks provided untimely as a result of the above described off the clock work. Plaintiff and
11 the Class members were also not permitted to leave their work premises during any rest breaks
12 they were able to take.

13 81. Labor Code §§ 226.7 and paragraphs 12 and 20 of the applicable IWC Wage
14 Orders provide that if an employer fails to provide an employee rest period in accordance with
15 this section, the employer shall pay the employee one hour of pay at the employee's regular rate
16 of compensation for each workday that the rest period is not provided.

17 82. Defendants, and each of them, have therefore intentionally and improperly denied
18 rest periods to Plaintiff and the Class members in violation of Labor Code §§ 226.7 and 512 and
19 paragraph 12 of the applicable IWC Wage Orders.

20 83. Defendants failed to authorize and permit Plaintiff and the Class members to take
21 rest periods, as required by the Labor Code. Moreover, Defendants did not compensate
22 Employees with an additional hour of pay at each Employee's hourly rate for each day that
23 Defendants failed to provide them with adequate rest breaks, as required under Labor Code §
24 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Orders.

25 84. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the
26 applicable IWC Wage Orders, Employees are entitled to damages in an amount equal to one
27 hour of wages at their effective hourly rates of pay for each day worked without the required rest
28 breaks, a sum to be proven at trial, as well as the assessment of any statutory penalties against

Defendants, and each of them, in a sum as provided by the Labor Code and/or other statutes.

FIFTH CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226(a)

(Against All Defendants)

85. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

86. California Labor Code § 226(a) requires an employer to furnish each of her or her employees with an accurate, itemized statement in writing showing the gross and net earnings, total hours worked, and the corresponding number of hours worked at each hourly rate; these statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

87. Defendants failed to provide Plaintiff and the similarly situated Employee Class members with accurate itemized wage statements in writing, as required by the Labor Code and paragraph 7 of the applicable IWC Wage Orders. Specifically, Defendants required Class members to ask to receive statements, rather than mailing or otherwise handing them out to all Employees. Also, the wage statements given to Employees by Defendants failed to accurately account for wages, overtime, and premium pay, including by failing to pay for all hours worked, failure to pay for all overtime hours worked and for providing deficient meal periods and rest breaks, all of which Defendants knew or reasonably should have known were owed to the Employees, as alleged above.

88. Defendants also provided Plaintiff and the Class members with wage statements that failed to accurately report all hours worked and applicable hourly rates for all hours worked. Plaintiff and the Employees in the Class were unable to discern from their wage statements alone the actual hours they worked in total during a pay period.

///

1
2 89. Throughout the liability period, Defendants intentionally failed to furnish to
3 Plaintiff and the Class members, upon each payment of wages, itemized statements accurately
4 showing: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of
5 piece-rate units earned and any applicable piece rate paid on a piece-rate basis, (4) all
6 deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
7 paid, (7) the name of the employee and only the last four digits of her or her social security
8 number or an employee identification number other than a social security number, (8) the name
9 and address of the legal entity that is the employer and (9) all applicable hourly rates in effect
10 during the pay period and the corresponding number of hours worked at each hourly rate by the
11 employee pursuant to Labor Code § 226 and paragraph 7 of the applicable IWC Wage Orders,
12 amongst other statutory requirements. Defendants knowingly and intentionally failed to provide
13 Plaintiff and the Class members with such timely and accurate wage and hour statements.

14 90. Plaintiff and the Class members suffered injury as a result of Defendants'
15 knowing and intentional failure to provide them with the wage and hour statements as required
16 by law and are presumed to have suffered injury and entitled to penalties under Labor Code §
17 226(e), as the Defendants have failed to provide an accurate wage statement, failed to provide
18 accurate and complete information as required by any one or more of items Labor Code § 226
19 (a)(1) to (9), inclusive, and the Plaintiff and Class members cannot promptly and easily
20 determine from the wage statement alone one or more of the following: (i) The amount of the
21 gross wages or net wages paid to the employee during the pay period or any of the other
22 information required to be provided on the itemized wage statement pursuant to items (2) to (4),
23 inclusive, (6), and (9) of subdivision (a), (ii) Which deductions the employer made from gross
24 wages to determine the net wages paid to the employee during the pay period, (iii) The name
25 and address of the employer and, (iv) The name of the employee and only the last four digits of
26 her or her social security number or an employee identification number other than a social
27 security number. For purposes of Labor Code § 226(e) "promptly and easily determine" means
28 a reasonable person [i.e. an objective standard] would be able to readily ascertain the

1 information without reference to other documents or information.

2 91. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders,
3 employers are required “to pay each employee, on the established payday for the period
4 involved, not less than the applicable minimum wage for all hours worked in the payroll period,
5 ...” Under Labor Code § 1198, “[t]he employment of any employee for longer hours than those
6 fixed by the order or under conditions of labor prohibited by the order is unlawful.” Plaintiff and
7 the Class members may therefore pursue damages and penalties for violations of Labor Code §
8 204 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties under
9 paragraph 20 of the applicable IWC Wage Orders.

10 92. Therefore, as a direct and proximate cause of Defendants’ violation of Labor
11 Code § 226(a) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, the
12 Employees in the Class suffered injuries, including among other things confusion over whether
13 they received all wages owed them, the difficulty and expense involved in reconstructing pay
14 records, and forcing them to make mathematical computations to analyze whether the wages
15 paid in fact compensated them correctly for all hours worked.

16 93. Pursuant to Labor Code §§ 226(a) and 226(e), and paragraph 20 of the applicable
17 IWC Wage Order, Plaintiff and the Employee Class members are entitled to recover the greater
18 of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs
19 and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
20 aggregate penalty of four thousand dollars (\$4,000) under Section 226(e). They are also entitled
21 to an award of costs and reasonable attorneys’ fees.

22 **SIXTH CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE § 221**

24 **(Against All Defendants)**

25 94. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth
26 in full herein.

27 95. Labor Code § 221 provides, “It shall be unlawful for any employer to collect or
28 receive from an employee any part of wages theretofore paid by said employer to said

employee.” Additionally, pursuant to California Labor Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked. Defendants failed to do so.

96. Defendants unlawfully received and/or collected wages from the Employees in the Class by implementing a policy understating the hours worked by Employees and requiring off the clock work, as alleged above.

97. As a direct and proximate cause of the unauthorized deductions, Employees have been damaged, in an amount to be determined at trial.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 204
(Against All Defendants)

98. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

99. Labor Code § 204 instructs that: “All wages, ...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Additionally, the requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” As detailed above, Defendants maintained a consistently applied policy and practice of not paying all wages earned between the 1st and 15th days of a month between the 16th and 26th day and failed to pay all wages earned between the 16th and the last day of the month between the 1st and 10th day of the following month. This included failing to pay all wages due and owing to Plaintiff and the Class members for all hours they worked.

100. All wages due and owing to Plaintiff and the Class members, including as

1 required under Labor Code § 510, were therefore not timely paid by Defendants. Additionally,
2 wages required by Labor Code § 1194 and other sections became due and payable to each
3 employee in each pay period that she or she was not provided with a meal period or rest period
4 or paid straight or overtime wages to which she or she was entitled.

5 101. Defendants violated Labor Code § 204 by systematically refusing to timely pay
6 wages due under the Labor Code, as addressed above. Additionally, under paragraph 4(B) of the
7 applicable IWC Wage Orders, employers are required “to pay each employee, on the established
8 payday for the period involved, not less than the applicable minimum wage for all hours worked
9 in the payroll period, ...” Under Labor Code § 1198, “[t]he employment of any employee for
10 longer hours than those fixed by the order or under conditions of labor prohibited by the order is
11 unlawful.” Plaintiff and the Class members may therefore pursue damages and penalties for
12 violations of Labor Code § 204 and paragraph 4(B) of the applicable IWC Wage Orders,
13 including penalties under paragraph 20 of the applicable IWC Wage Orders. Defendants also
14 violated section 204 by failing to provide actual wage statements to Employees and instead
15 requiring them to ask to receive them each time.

16 102. As a result of the unlawful acts of Defendants, Plaintiff and the Class she seeks to
17 represent have been deprived of wages in amounts to be determined at trial, and they are entitled
18 to recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs,
19 pursuant to Labor Code § 210, 218.5, 1194 and 1198, and paragraphs 4(B) and 20 of the
20 applicable IWC Wage Orders.

21 **EIGHTH CAUSE OF ACTION**

22 **VIOLATION OF LABOR CODE § 203**

23 **(Against All Defendants)**

24 103. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth
25 in full herein.

26 104. Numerous Class members are no longer employed by Defendants; they either
27 quit Defendants’ employ or were fired therefrom.

28 105. Defendants failed to pay these Employees all wages due and certain at the time of

1 termination or within seventy-two (72) hours of resignation, as addressed in detail above.

2 106. The wages withheld from these Employees by Defendants remained due and
3 owing for more than thirty (30) days from the date of separation from employment.

4 107. Defendants failed to pay these Class members without abatement, all wages as
5 defined by applicable California law. Among other things, these Employees were not paid all
6 regular and overtime wages, including by Defendants failing to pay for all hours worked or
7 requiring off the clock work or by unlawfully under-recording time entries and rounding to the
8 detriment of Employees, and Defendants failed to pay premium wages owed for unprovided
9 meal periods and rest periods, as further detailed in this Complaint. Defendants' failure to pay
10 said wages within the required time was willful within the meaning of Labor Code § 203.

11 108. Additionally, under paragraph 4(B) of the applicable IWC Wage Orders,
12 employers are required "to pay each employee, on the established payday for the period
13 involved, not less than the applicable minimum wage for all hours worked in the payroll period,
14 ..." Under Labor Code § 1198, "[t]he employment of any employee for longer hours than those
15 fixed by the order or under conditions of labor prohibited by the order is unlawful." Plaintiff on
16 behalf of these Class members may therefore pursue damages and penalties for violations of
17 Labor Code § 203 and paragraph 4(B) of the applicable IWC Wage Orders, including penalties
18 under paragraph 20 of the applicable IWC Wage Orders. Also, under Labor Code § 1199(a)-(c),
19 it is a misdemeanor and Defendants are subject to a fine of not less than \$100 for causing
20 Employees "to work for longer hours than those fixed, or under conditions of labor prohibited by
21 an order of the commission" or if the employer pays "a wage less than the minimum fixed by an
22 order of the commission" or "violates...any provision of this chapter or any order or ruling of
23 the commission."

24 109. Defendants' failure to pay wages, as alleged, entitles these former Employee
25 Class members to penalties under Labor Code § 203 and the applicable paragraphs of the IWC
26 Wage Orders as addressed above, including the requirement that an employee's wages shall
27 continue until paid for up to thirty (30) days from the date they were due.

28 ///

1 ///
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 ///

NINTH CAUSE OF ACTION
FOR FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES
UNDER LABOR CODE § 2802
(Against All Defendants)

110. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth in full herein.

111. Plaintiff and the Class are informed and believe and based thereon allege that throughout the period applicable, Defendants required Plaintiff and the Class members to pay for necessary work related expenses they incurred. Defendants required Plaintiff and the Class members to use their cellular phones and a phone application to conduct work related business and to receive scheduling and assignments and to receive and respond to messages. Plaintiff and the Class members must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

112. Defendants thus followed a uniform policy and practice of failing to reimburse Employees for these necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

113. Defendants' knowing and willful failure to reimburse lawful necessary work related expenses and losses to Plaintiff and the Class members resulted in damages because, among other things, Defendants did not inform employees of their right to be reimbursed for those work related expenses. As Defendants failed to inform and misled Plaintiff and the Class members with regard to their rights, Plaintiff and the Class members were led to believe that incurring those lawful and necessary expenses was an expected and essential function of their employment with Defendants and that failure to incur those expenses would have adverse consequences on their employment.

1
2 114. Therefore, Plaintiff and the Class members are entitled to reimbursement for any
3 and all necessary work related expenses, as provided for in Labor Code § 2802(b) and paragraph
4 9 of the applicable IWC Wage Orders, incurred during the direct discharge of their duties while
5 employed by Defendants, as well as accrued interest on those expenses that were not reimbursed
6 from the date Plaintiff and the Class members incurred those expenses. Further, Plaintiff and the
7 Class members are entitled to costs and attorney's fees pursuant to Labor Code § 2802(c).

8 **TENTH CAUSE OF ACTION**

9 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

10 **(Against All Defendants)**

11 115. Plaintiff realleges and incorporates all preceding paragraphs, as though set forth
12 in full herein.

13 116. Plaintiff, on behalf of herself, the Employees in the Class, and the general public,
14 brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of
15 Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and
16 harmful to Employees and the general public. Plaintiff seeks to enforce important rights
17 affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

18 117. Plaintiff is a "person" within the meaning of Business & Professions Code
19 § 17204, have suffered injury, and therefore has standing to bring this cause of action for
20 injunctive relief, restitution, and other appropriate equitable relief.

21 118. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair
22 business practices. By the conduct alleged herein, Defendants' practices were deceptive and
23 fraudulent in that Defendants' policy and practice failed to provide the required amount of
24 compensation for missed meal and rest breaks, and failed to adequately compensate Plaintiff and
25 Class members for all hours worked, due to systematic business practices as alleged herein that
26 cannot be justified, pursuant to the applicable California Labor Code and Industrial Welfare
27 Commission requirements in violation of California Business and Professions Code §§ 17200, *et*
28 *seq.*, and for which this Court should issue injunctive and equitable relief, pursuant to California

1 Business & Professions Code § 17203, including restitution of wages wrongfully withheld.

2 119. Wage-and-hour laws express fundamental public policies. Paying employees
3 their wages and overtime, providing them with meal periods and rest breaks, etc., are
4 fundamental public policies of California. Labor Code § 90.5(a) articulates the public policies of
5 this State vigorously to enforce minimum labor standards, to ensure that employees are not
6 required or permitted to work under substandard and unlawful conditions, and to protect law-
7 abiding employers and their employees from competitors who lower costs to themselves by
8 failing to comply with minimum labor standards.

9 120. Defendants have violated statutes and public policies. Through the conduct
10 alleged in this Complaint, Defendants have acted contrary to these public policies, have violated
11 specific provisions of the Labor Code, and have engaged in other unlawful and unfair business
12 practices in violation of Business & Professions Code § 17200 *et seq.*; which conduct has
13 deprived Plaintiff, and all persons similarly situated, and all interested persons, of the rights,
14 benefits, and privileges guaranteed to all employees under the law.

15 121. Defendants' conduct, as alleged above, constitutes unfair competition in violation
16 of the Business & Professions Code § 17200 *et seq.*

17 122. Defendants, by engaging in the conduct herein alleged, by failing to pay wages
18 and overtime, failing to provide meal periods and rest breaks, etc., either knew or in the exercise
19 of reasonable care should have known that their conduct was unlawful; therefore their conduct
20 violates the Business & Professions Code § 17200 *et seq.*

21 123. By the conduct alleged herein, Defendants have engaged and continue to engage
22 in a business practice which violates California and federal law, including but not limited to, the
23 applicable Industrial Wage Order(s), the California Code of Regulations, and the California
24 Labor Code including Sections 204, 226, 226.7, 510, 512, 1194, 1197, and 1198 for which this
25 Court should issue declaratory and other equitable relief pursuant to California Business &
26 Professions Code § 17203 as may be necessary to prevent and remedy the conduct held to
27 constitute unfair competition, including restitution of wages wrongfully withheld.

28 124. As a proximate result of the above-mentioned acts of Defendants, Employees

1 have been damaged, in a sum to be proven at trial.

2 125. Unless restrained by this Court, Defendants will continue to engage in the unlawful
3 conduct as alleged above. Pursuant to the Business & Professions Code, this Court should make
4 such orders or judgments, including the appointment of a receiver, as may be necessary to prevent
5 the use by Defendants or their agents or employees of any unlawful or deceptive practice
6 prohibited by the Business & Professions Code, including but not limited to the disgorgement of
7 such profits as may be necessary to restore Employees to the money Defendants have unlawfully
8 failed to pay.

9 **ELEVENTH CAUSE OF ACTION**
10 **PENALTIES PURSUANT TO LABOR CODE § 2698, *ET SEQ.***
11 **(Against All Defendants)**

12 126. Plaintiff realleges and incorporate all preceding paragraphs, as though set forth in
13 full herein.

14 127. Plaintiff and the Employees in the Class are also aggrieved employees as defined
15 under Labor Code § 2699(c) in that they suffered the violations alleged in this Complaint and
16 either were or are employed by Defendants (“Aggrieved Employees”) during the relevant time
17 period.

18 128. In failing to pay Aggrieved Employees minimum wages and overtime, not
19 providing proper meal and rest periods, failing to provide accurate itemized wage statements, and
20 failing to pay Employees wages upon termination or timely upon resignation, all discussed above,
21 Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required
22 under Labor Code § 204. Defendants also failed to maintain records showing accurate hours
23 worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and
24 paragraph 7 of the applicable IWC Wage Orders.

25 129. As such, Employees seek wages and penalties under Labor Code §§ 2698 and 2699
26 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5,
27 including the penalty provisions, without limitation, based, inter alia, on the following California
28 Labor Code sections: 201, 202, 203, 204, 206.5, 226, 226.2, 226.7, 432.5, 510, 512, 558, 1174,

1 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1199, 2802 and 2698 *et seq.*

2 130. More specifically, after complying with the notice procedures of Labor Code §
3 2699.3, Plaintiff asserts, as a representative action on behalf of the California Attorney General
4 and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed
5 underlying claims and seeking penalties as specified by the applicable corresponding provisions,
6 including as follows:

7 (a) Wage Claims: For failure to provide Plaintiff and the Aggrieved Employees all
8 earned regular pay and minimum wages for regular hours worked and for failure to pay overtime
9 premium wages for overtime hours worked under Labor Code §§ 226.2, 510, 1194(a), 1197, and
10 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking
11 all civil and statutory penalties available and applicable, and wages, under Labor Code §§ 510,
12 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant
13 to Labor Code § 2699(g)(1);

14 (b) Meal and Rest Period Claims: For failure to provide Plaintiff and the Aggrieved
15 Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to
16 take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under
17 Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC
18 Wage Order(s) seeking all civil and statutory penalties available and applicable, including under
19 paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512,
20 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs
21 pursuant to Labor Code § 2699(g)(1);

22 (c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide
23 Plaintiff and the Aggrieved Employees with accurate, itemized wage statements and failure to
24 maintain employment records for Plaintiff and Aggrieved Employees under Labor Code §§ 226,
25 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking
26 all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e),
27 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order,
28 and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by

1 providing inaccurate wage statements and failing to maintain records as required under Labor
2 Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor
3 Code §226.3, which in addition to other penalties provided by law, subjects Defendants to “a
4 penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial
5 citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent
6 citation, ...”;

7 (d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at
8 least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204,
9 226.2, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable, and wages,
10 under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20
11 of the applicable IWC Wage Orders, and also for attorneys’ fees and costs pursuant to Labor Code
12 § 2699(g)(1);

13 (e) Unlawful Deductions and Failure to Reimburse Necessary Business Expenses: For
14 Defendants’ unlawful deductions from wages and for Defendants’ failure to reimburse the
15 necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and
16 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties
17 available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and
18 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys’ fees and costs
19 pursuant to Labor Code § 2699(g)(1);

20 (f) All Alleged Violations of the IWC Wage Orders and Other Labor Code Sections:
21 For any above addressed violation of the applicable provisions of the IWC Wage Orders, each of
22 which constitute separate violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking
23 penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the
24 applicable IWC Wage Orders, and for attorneys’ fees and costs pursuant to Labor Code §
25 2699(g)(1).

26 131. As also addressed above, Plaintiff, on behalf of the Aggrieved Employees, also
27 seeks the penalties and remedies set forth in Labor Code § 558, which states:

28 ///

1 (a) Any employer or other person acting on behalf of an employer who violates, or
2 causes to be violated, a section of this chapter or any provision regulating hours and days of work
3 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1)
4 For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for
5 which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.
6 (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
7 each pay period for which the employee was underpaid in addition to an amount sufficient to
8 recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected
9 employee.

10 (b) If upon inspection or investigation the Labor Commissioner determines that a
11 person had paid or caused to be paid a wage for overtime work in violation of any provision of this
12 chapter, or any provision regulating hours and days of work in any order of the Industrial Welfare
13 Commission, the Labor Commissioner may issue a citation. The procedures for issuing, contesting,
14 and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a
15 violation of this chapter shall be the same as those set out in Section 1197.1.

16 (c) The civil penalties provided for in this section are in addition to any other civil or
17 criminal penalty provided by law.

18 132. Plaintiff has exhausted his administrative remedies by submitting a certified letter to
19 the LWDA and Defendants on January 20, 2023 (LWDA Case No. LWDA-CM-931022-23)
20 addressing in detail the specific provisions of the Labor Code Defendants have violated and
21 addressing the facts and legal theories to support the alleged violations and requested penalties.
22 The LWDA has not provided notice of its intent to investigate the alleged violations within 65
23 calendar days of the postmark date of the letter, and Plaintiff adds this claim seeking penalties
24 under the PAGA for the violations addressed herein and in the PAGA Notice letter and the original
25 Complaint.

26 **RELIEF REQUESTED**

27 WHEREFORE, Plaintiff prays for the following relief:

- 28 1. For an order certifying this action as a class action;
2. For compensatory damages in the amount of the unpaid minimum wages for work
performed by Employees and unpaid overtime compensation from at least four (4) years prior to
the filing of this action, as may be proven;
3. For liquidated damages in the amount equal to the unpaid minimum wage and
interest thereon, from at least four (4) years prior to the filing of this action, according to proof;
4. For compensatory damages in the amount of all unpaid wages, including overtime
and double-time pay, as may be proven;

1 5. For compensatory damages in the amount of the hourly wage made by Employees
2 for each missed or deficient meal period where no premium pay was paid therefor from four (4)
3 years prior to the filing of this action, as may be proven;

4 6. For compensatory damages in the amount of the hourly wage made by Employees
5 for each day requisite rest breaks were not provided or were deficiently provided where no
6 premium pay was paid therefor from at least four (4) years prior to the filing of this action, as may
7 be proven;

8 7. For penalties pursuant to Labor Code § 226(e) for Employees, as may be proven;

9 8. For restitution and/or damages and penalties for Defendants' failure to pay all
10 wages due twice monthly under Labor Code § 204, as may be proven;

11 9. For restitution and/or damages for all amounts unlawfully withheld from the wages
12 for all class members in violation of Labor Code § 221, as may be proven;

13 10. For penalties pursuant to Labor Code § 203 for all Employees who quit or were
14 fired in an amount equal to their daily wage times thirty (30) days, as may be proven;

15 11. For damages and restitution for failure to reimburse all reasonable and necessary
16 business expenses incurred by Employees as required by Labor Code § 2802, as may be proven;

17 12. For liquidated damages pursuant to California Labor Code 1194.2(a) for failure to
18 pay minimum wage;

19 13. For restitution for unfair competition pursuant to Business & Professions Code
20 § 17200 *et seq.*, including disgorgement or profits, as may be proven;

21 14. For an order enjoining Defendants and their agents, servants, and employees, and
22 all persons acting under, in concert with, or for them, from acting in derogation of any rights or
23 duties adumbrated in this Complaint;

24 15. For penalties pursuant to Labor Code § 2698 *et seq.*, as may be proven;

25 16. For penalties under Labor Code § 558, as may be proven;

26 17. For other wages and penalties under the Labor Code as may be proven;

27 18. For all general, special, and incidental damages as may be proven;

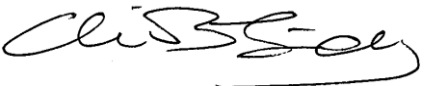
28 19. For an award of pre-judgment and post-judgment interest;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 20. For an award providing for the payment of the costs of this suit;
- 21. For an award of attorneys' fees; and
- 22. For such other and further relief as this Court may deem proper and just.

DATED: March 27, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

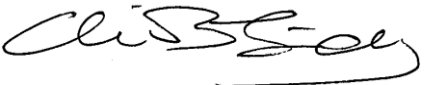
By 
David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff ANGELA
CASTILLO, on behalf of herself
and all others similarly situated

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

DATED: March 27, 2023

DAVID YEREMIAN & ASSOCIATES, INC.

By 

David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff ANGELA
CASTILLO, on behalf of herself
and all others similarly situated

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 2540 Foothill Blvd., Suite 201 La Crescenta, CA 91214.

Chad Biggins
chadbiggins@gmail.com
Biggins Law Group
3701 Wilshire Blvd. Suite 410
Los Angeles, CA 90010

[X] (BY ELECTRONIC TRANSMISSION) by use of email by scanning or printing to .pdf the documents and any and all documents and emailing them to email addresses above.

[X] (STATE) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Natalia Bermudes
Natalia Bermudes

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE Branch Name: Historic Court House Mailing Address: 4050 Main Street City, State and Zip Code: Riverside CA 92501	
SHORT TITLE: CASTILLO vs ROMANO'S - MISSION GROVE, INC. NOTICE OF CONFIRMATION OF ELECTRONIC FILING	CASE NUMBER: CVRI2300309

The Electronic Filing described by the below summary data was reviewed and accepted by the Superior Court of California, County of RIVERSIDE. In order to process the filing, the fee shown was assessed.

Electronic Filing Summary Data

Electronically Submitted By: Legal Connect
 Reference Number: 7306961_2023_03_27_19_53_46_198_0
 Submission Number: 23RSCR00373825
 Court Received Date: 03/27/2023
 Court Received Time: 12:57 pm
 Case Number: CVRI2300309
 Case Title: CASTILLO vs ROMANO'S - MISSION GROVE, INC.
 Location: Historic Court House
 Case Type: Civil
 Case Category: Unlimited Civil Other Employment
 Jurisdictional Amount: Amount over \$25,000
 Notice Generated Date: 03/27/2023
 Notice Generated Time: 3:01 pm

Documents Electronically Filed/Received

Status

Amended Complaint

Accepted

Comments

Submitter's Comments:

Clerk's Comments:

Electronic Filing Service Provider Information

Service Provider: Legal Connect
 Contact: Legal Connect
 Phone: (800) 909-6859