

ABRAMSON LABOR GROUP

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

EUSTORGIA ADAME AGUILERA, on behalf
of herself and all others similarly situated,

Plaintiff,

vs.

QUALITY FOOD SERVICE, LLC, a California
limited liability company; and DOES 1 through
100, inclusive,

Defendants.

Case No. 23CV028272

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

- (1) **MEAL PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 512, 1198);
- (2) **REST PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 516, 1198)
- (3) **MINIMUM WAGE VIOLATIONS**
(LABOR CODE §§ 204, 558, 1182.12,
1194, 1194.2, 1197, 1198);
- (4) **FAILURE TO PAY OVERTIME
WAGES** (LABOR CODE §§ 204, 510,
558, 1194, 1198);
- (5) **WAGE STATEMENT VIOLATIONS**
(LABOR CODE § 226, *et seq.*);
- (6) **WAITING TIME PENALTIES**
(LABOR CODE §§ 201-203);
- (7) **UNFAIR COMPETITION** (BUS. &
PROF. CODE § 17200, *et seq.*)
- (8) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT** (LABOR CODE § 2698, *et seq.*).

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Eustorgia Adame Aguilera (“Plaintiff”), on behalf of herself and all others
2 similarly situated, hereby brings this Class and Representative Action Complaint against Quality
3 Food Service, LLC., a California limited liability company; and Does 1 through 100, inclusive
4 (collectively, “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
7 class and representative action for recovery of unpaid wages and penalties under California
8 Business and Professions Code section 17200, *et. seq.*; Labor Code sections 201-204, 226, 226.7,
9 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq*; and Industrial Welfare
10 Commission Wage Order No. 5 (“Wage Order 5”), in addition to seeking declaratory relief and
11 restitution. This class action is brought pursuant to California Code of Civil Procedure section
12 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code because
13 the amount in controversy exceeds this Court’s jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in Alameda County. Defendants own, maintain offices, transact business, have an agent
18 or agents within Alameda County, and/or otherwise are found within Alameda County, and
19 Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
23 the filing of this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
25 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
26 and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 201-
27 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698 *et seq*; California
28 Business & Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 5, which

1 sets employment standards for employees in the public housekeeping industry, which includes
2 restaurants, night clubs, taverns, bars, and similar establishments which prepare food for
3 consumption on or off the premises.

4 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
5 years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
6 business as a Denny's restaurant franchisee, and that they employed Plaintiff and other similarly
7 situated non-exempt employees within Alameda County and the state of California.

8 5. Plaintiff does not know the true names or capacities, whether individual, partner,
9 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
11 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
12 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
13 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
14 and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the
15 unlawful employment practices, wrongs, injuries, and damages complained of herein.

16 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
17 mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

18 7. At all times herein mentioned, each of said Defendants participated in the acts
19 herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and
20 each of them, were the agents, servants, and employees of each of the other Defendants, as well
21 as the agents of all Defendants, and at all times herein mentioned were acting within the course
22 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
23 and/or otherwise ratified each of the acts or omissions alleged herein.

24 8. At all times mentioned herein, Defendants, and each of them, were members of
25 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
26 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
27 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
28 Members (as defined in Paragraph 16).

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff was employed by Defendants as a non-exempt employee from approximately December 2021 until approximately April 2022.

10. Defendants have failed to provide Plaintiff and other non-exempt employees with all statutorily mandated meal periods due to Defendants' meal period policies/practices. Specifically, the workload imposed on Plaintiff and other non-exempt employees often made it impracticable for Plaintiff and other non-exempt employees to take a 30-minute off-duty meal period prior to the end of the fifth hour of work. Plaintiff and other non-exempt employees frequently had their meal periods interrupted, delayed, and/or cut short due to the excessive workload placed on Plaintiff and other non-exempt employees and Defendants' failure to properly staff their restaurants. However, Defendants directed Plaintiff and other non-exempt employees to record artificially compliant meal periods on their timecards. In those instances that Plaintiff and other non-exempt employees did not receive legally compliant meal periods, Defendants also failed to pay the meal period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants maintained no payroll code or other mechanism for paying meal period premiums when Defendants failed to provide a legally compliant meal period.

11. Defendants have also failed to authorize and permit rest periods to Plaintiff and other non-exempt employees. Specifically, Defendants have failed to authorize and permit a 10-minute net rest period for every 4 hours worked or major fraction thereof, as Plaintiff and other non-exempt employees were frequently unable to take the rest periods to which they were entitled as a result of the workload imposed by Defendants and Defendants' failure to properly staff its restaurants. In those instances that Defendants failed to authorize and permit Plaintiff and other non-exempt employees to take a legally compliant rest period, Defendants have failed to pay the rest period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to authorize and permit a legally compliant rest period.

1 12. As noted above, Plaintiff and other non-exempt employees were directed by
2 Defendants to clock out for their meal periods even in instances in which they were not provided
3 a meal period, as described above. In fact, Plaintiff frequently worked through meal periods but
4 was forced to clock out for each meal period, depriving Plaintiff and other non-exempt employees
5 of the wages they earned while working through their meal periods. Defendants knew or
6 reasonably should have known that Plaintiff and other non-exempt employees worked these
7 hours, but as a result of this policy and practice, Defendants failed to pay Plaintiff and other non-
8 exempt employees all wages due to them, including minimum wages and overtime wages.

9 13. Defendants have also maintained payroll practices which have resulted in Plaintiff
10 and other employees being paid late for their earned wages. Specifically, Defendants have
11 generally paid Plaintiff and other employees 9 days after the end of the pay period. This resulted
12 in employees, both exempt and non-exempt, being paid late in many pay periods. For example,
13 in the pay period of February 17 through March 2, 2022, wages earned during this period were
14 not paid until March 11, 2022, which resulted in wages earned in the latter half of February not
15 being paid until after March 10, in violation of Labor Code § 204. As another example, in the pay
16 period of April 14 through 27, 2022, wages earned during this period were not paid until May 6,
17 2022, resulting in wages earned in the first half of April not being paid until several days after
18 April 26. Labor Code § 204(a) requires “Labor performed between the 1st and 15th days,
19 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month
20 during which the labor was performed, and labor performed between the 16th and the last day,
21 inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following
22 month.” Thus, by failing to pay Plaintiff for the wages she earned during the first half of April
23 2022 until May 6, 2022, Defendants payroll practices violate Labor Code § 204, as it resulted in
24 Plaintiff and other employees being paid late for wages earned in the previous pay period.

25 14. As a result of Defendants’ failure to pay all minimum wages and overtime wages,
26 as well as Defendants’ failure to pay meal and rest period premium wages, Defendants maintained
27 inaccurate payroll records, and issued inaccurate wage statements to Plaintiff and other non-
28 exempt employees.

15. As a further result of Defendants' failure to pay all wages due, Defendants failed to pay all wages due to Plaintiff and other former employees at the termination of employment. In addition, Defendants failed to pay Plaintiff her final paycheck timely. Specifically, Plaintiff's employment with Defendants ended in or about the week of April 17, 2022, but Defendants did not provide Plaintiff with her final paycheck until May 6, 2022, approximately 16 days after the end of her employment.

CLASS ACTION ALLEGATIONS

16. Class Definitions: Plaintiff bring this action on behalf of herself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

a. The Meal Period Class consists of all of the Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 5.0 hours, during the four years immediately preceding the filing of this action through the present.

b. The Rest Period Class consists of all of the Defendants' current and former non-exempt employees in California who worked at least one shift of 3.5 hours or more, at any time from four years immediately preceding the filing of this action through the present.

c. The Minimum Wage Class consists of all of the Defendants' current and former non-exempt employees who were subject to Defendants' meal period practices, at any time from four years prior to the filing of this action through the present.

d. The Overtime Class consists of all of the Defendants' current and former non-exempt employees in California who worked more than 8.0 hours in a workday and/or over 40.0 hours in a workweek, and were subject to Defendants' meal period practices, at any time from four years immediately preceding the filing of this action through the present.

e. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, Meal Period Class, and/or Rest Period Class who received a wage statement during the one year immediately preceding the filing of this lawsuit through the present.

f. The Waiting Time Class consists of (i) all members of the Minimum Wage Class, Overtime Class, Meal Period Class, and/or Rest Period Class, who are no longer employed

by Defendants and who last worked for Defendants at any time from three years immediately preceding the filing of this lawsuit through the present; and/or (ii) all former employees of Defendants whose final wages were not paid to them (a) immediately in the case of termination, or (b) within 72 hours of resignation, if they resigned without providing 72 hours' notice.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class;
- ii. Whether Defendants authorized and permitted legally compliant rest periods to members of the Rest Period Class;
- iii. Whether Defendants' timekeeping and payroll practices violate the applicable Labor Code provisions including, but not limited to, Sections 510 and 1194 by requiring overtime work and not paying the Overtime Class for said work according to California's overtime laws;
- iv. Whether Defendants paid at least the minimum wage for all hours worked to members of the Minimum Wage Class;
- v. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and
- vi. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of separation of employment.

1 19. **Predominance of Common Questions:** Common questions of law and fact
2 predominate over questions that affect only individual members of the Classes. The common
3 questions of law set forth above are numerous and substantial and stem from Defendants' policies
4 and/or practices applicable to each individual class member, such as Defendants' timekeeping,
5 wage statement, meal period, rest period, and final wage policies/practices. As such, the common
6 questions predominate over individual questions concerning each individual class member's
7 showing as to his or her eligibility for recovery or as to the amount of his or her damages.

8 20. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because
9 Plaintiff was employed by Defendants as a non-exempt employee in California during the
10 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
11 alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned minimum
12 wages and overtime wages, was subject to Defendants' uniform meal and rest period
13 policies/practices, was furnished with inaccurate wage statements, and was deprived of all final
14 wages upon her separation of employment from Defendants.

15 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
16 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
17 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
18 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class
19 actions in state and federal courts in the past and are committed to vigorously prosecuting this
20 action on behalf of the members of the Classes.

21 22. **Superiority:** The California Labor Code is broadly remedial in nature and serves
22 an important public interest in establishing minimum working conditions and standards in
23 California. These laws and labor standards protect the average working employee from
24 exploitation by employers who have the responsibility to follow the laws and who may seek to
25 take advantage of superior economic and bargaining power in setting onerous terms and
26 conditions of employment. The nature of this action and the format of laws available to Plaintiff
27 and members of the Classes make the class action format a particularly efficient and appropriate
28 procedure to redress the violations alleged herein. If each employee were required to file an

individual lawsuit, Defendants would necessarily gain an unfair advantage, as they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by individual class members would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 16 are maintainable under Code Civ. Proc. § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all their hourly non-exempt employees, including Plaintiff and members of the Meal Period Class, with all required meal periods in accordance with the mandates of the California Labor Code and Wage Order 5, for the reasons set forth in this Complaint.

25. As a result, Defendants owe premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 5, Labor Code §§ 226.7 and 512, Civil Code § 3287, and Art. XV, § 1 of the California Constitution.

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and/or suffered or permitted to work under the Labor Code and Wage Order 5.

33. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

34. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but not limited to, unpaid wages and lost interest in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 5.

35. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, interest thereon, statutory penalties, and attorneys' fees and costs of suit, per Labor Code §§ 204, 218.6, 558, 1194, 1194.2, 1197, 1198, and Code of Civil Procedure § 1021.5.

FOURTH CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(AGAINST ALL DEFENDANTS)

36. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

37. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed.

38. At all times relevant herein, Defendants were required to properly compensate Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 7. Wage Order 5, § 3 requires an employer to pay an employee "one and one-half (1½) times [the] employee's regular rate of pay" for work in excess

of 8 hours per workday and/or in excess of 40 hours in any workweek, and for the first 8 hours on the seventh consecutive workday in a workweek. Wage Order 5, § 3 also requires an employer to pay an employee double the employee's regular rate of pay for work in excess of 12 hours in a workday and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants caused Plaintiff and Overtime Class members to work overtime hours but did not compensate them at one and one-half times (or two times) their regular rate of pay for such hours.

39. The foregoing policies and practices are unlawful and create entitlement to recovery by Plaintiff and the Overtime Class in a civil action for the amount of overtime premiums owing, interest thereon, statutory penalties, and attorneys' fees and costs of suit according to Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, and Code of Civil Procedure § 1021.5.

FIFTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

40. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

41. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, all wages earned, all meal and rest period premium wages earned, and total hours worked, in violation of Labor Code § 226.

42. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, the non-payment of all their minimum and overtime wages and meal and rest period premium wages, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data.

43. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

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1 50. Defendants have engaged, and continue to engage, in unfair and/or unlawful
2 business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay
3 Plaintiff and the Classes all minimum and overtime wages due, failing to provide meal periods or
4 pay meal period premium wages, failure to authorize and permit rest periods or pay rest period
5 premium wages, failing to furnish accurate and complete itemized wage statements, and failing
6 to pay all earned wages at separation of employment.

7 51. Defendants' utilization of these unfair and/or unlawful business practices has
8 deprived Plaintiff and members of the Classes of compensation to which they are legally entitled,
9 constitutes unfair and/or unlawful competition, and provides an unfair advantage over
10 Defendants' competitors who have been and/or are currently employing workers and attempting
11 to do so in honest compliance with applicable wage and hour laws.

12 52. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
13 herein, Plaintiff, for herself, and on behalf of the members of the Classes, seeks full restitution of
14 monies as necessary and according to proof, to restore all monies withheld, acquired, and/or
15 converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

16 53. The acts complained of herein occurred within the four years immediately
17 preceding the filing of this action.

18 54. Plaintiff was compelled to retain the services of counsel to file this court action to
19 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf
20 of Defendants' current non-exempt employees, and to enforce important rights affecting the
21 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
22 which she is entitled to recover under Code of Civil Procedure § 1021.5.

23 **EIGHTH CAUSE OF ACTION**

24 **PRIVATE ATTORNEYS GENERAL ACT**

25 **(AGAINST ALL DEFENDANTS)**

26 55. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27 56. Defendants have committed several Labor Code violations against Plaintiff and
28 other aggrieved employees. Plaintiff is an "aggrieved employee" within the meaning of Labor

Code § 2698 *et seq.* Plaintiff, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- b. Failing to authorize and permit all legally required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- c. Failing to pay Plaintiff and other aggrieved employees at least the statutory minimum wage for all hours worked, in violation of Labor Code §§ 204, 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- d. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-time compensation earned, in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;

- e. Failing to pay all wages owed to Plaintiff and other aggrieved former employees at their separation of employment, in violation of Labor Code §§ 201-203;
- f. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198;
- g. Failing to pay Plaintiff and other aggrieved employees timely for all wages earned, in violation of Labor Code §§ 204;
- h. Failing to maintain accurate records (including but not limited to records of actual hours worked) on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code §§ 1174 and 1198; and

57. On or about February 23, 2023, Plaintiff notified Defendant Quality Food Service, LLC, via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 56 (a)-(h) above. Now that sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

58. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which she is entitled to recover under California Labor Code § 2699(g).

PRAYER

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

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;

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1 4. Upon the First Cause of Action, for compensatory, consequential, general, and
2 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;

3 5. Upon the Second Cause of Action, for compensatory, consequential, general, and
4 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 1198;

5 6. Upon the Third Cause of Action, for payment of minimum wages, liquidated
6 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
7 1197;

8 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
9 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

10 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
11 226, *et seq.*;

12 9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to
13 Labor Code §§ 201-203;

14 10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the
15 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
16 practices declared by this Court to be in violation of Business and Professions Code § 17200, *et*
17 *seq.*;

18 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
19 employees, and the State of California according to proof pursuant to Labor Code § 2699,
20 including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each
21 employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant
22 to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully
23 withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to
24 Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00
25 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4)
26 \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent
27 violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
28 each initial violation and \$200.00 for each subsequent violation per employee per pay period for

1 those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to
2 Labor Code § 2699(f);

3 12. Prejudgment interest on all due and unpaid wages and other damages pursuant to
4 California Labor Code §§ 218.6, 1194(a), 1194.2(a), and 2802(b); Civil Code § 3287; and Art.
5 XV, § 1 of the California Constitution;

6 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
7 226(e), 1194 *et seq.*, 2699(g), and Code of Civil Procedure § 1021.5; and

8 14. For such other and further relief the Court may deem just and proper.

9
10 Date: May 1, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

11
12 By:


Tuvia Korobkin
Attorney for Plaintiff

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

15
16
17 Dated: May 1, 2023

Respectfully submitted,
ABRAMSON LABOR GROUP

18
19 By:


Tuvia Korobkin
Attorney for Plaintiff