

1 **ADVOCATES FOR WORKER RIGHTS LLP**

2 MARCO A. PALAU (Bar No. 242340)

3 marco@advocatesforworkers.com

4 JOSEPH D. SUTTON (Bar No. 269951)

5 jds@advocatesforworkers.com

6 ERIC S. TRABUCCO (Bar No. 295473)

7 est@advocatesforworkers.com

8 212 9th Street, Suite 314

9 Oakland, California 94607

10 Telephone: (510) 269-4200

11 Facsimile: (408) 657-4684

12 Attorneys for Plaintiffs Jonathan Garcia

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/24/2023 1:35 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By A. Salcedo, Deputy Clerk

9 **SUPERIOR COURT OF THE STATE CALIFORNIA**
10 **IN AND FOR THE COUNTY OF LOS ANGELES**

Case No.: **23VECVO2289**

COMPLAINT FOR:

13 JONATHAN GARCIA, an individual,

14 Plaintiff,

15 vs.

16 ME BOON D, a Limited Liability Company (doing
17 business as "TSUKI RAMEN," "EXOTIC THAI
18 CAFÉ," "CHILI & LIME"), BOONPA
19 NONGPROMMA and DOES 1-20, inclusive,

20 Defendants.

1. Failure to Compensate for All Hours Worked, Cal. Lab. Code §§ 204, 204b, 223, 226.2, 1194; Wage Orders;
2. Failure to Pay Overtime Wages, Cal. Lab. Code §§ 510, 1194, IWC Wage Orders;
3. Failure to Provide Rest Breaks or Pay Wages in Lieu Thereof, Cal. Labor Code § 226.7, IWC Wage Orders;
4. Failure to Provide Meal Periods or Pay Wages in Lieu Thereof, Cal. Lab. Code §§ 226.7, 512, IWC Wage Orders;
5. Waiting Time Penalties, Cal. Labor Code §§ 201-203;
6. Violation of Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq.
7. Private Attorney General Act ("PAGA"), LC §§ 2698 et seq

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 1. Plaintiff Jonathan Garcia (“Plaintiff”) brings this action against Me Boon D, LLC
3 (doing business as “Tsuki Ramen,” “Exotic Thai Café,”), Boonpa Nongpromma, and Does 1-20,
4 (collectively referred to herein as “Defendants”) for wages and penalties on behalf of himself and the
5 State of California and other current and former workers pursuant to Labor Code section 2698, *et seq.*

6 2. The following allegations are based on Plaintiff’s knowledge, except allegations made
7 on information and belief, which are based on a reasonable investigation under the circumstances and
8 are likely to have evidentiary support after a reasonable opportunity for further investigation or
9 discovery.

10 3. At all times relevant to this action, Defendants have engaged in systematic wage theft,
11 maintaining policies and practices that violate the rights of Plaintiff. Defendants have failed to
12 compensate Plaintiff and, on information and belief, other workers for all hours worked in violation of
13 the state’s minimum wage and overtime laws; failed to provide timely, complete and off-duty meal
14 periods, or otherwise pay premium wages in lieu thereof; failed to authorize and permit rest periods in
15 compliance with the Wage Orders and at the requisite rates for the length of shifts, or otherwise pay
16 premium wages in lieu thereof; failed to pay all wages owed upon termination of the employment
17 relationship; and failed to comply with record keeping requirements.

18 4. Defendants’ acts and omissions, which violate the Labor Code, constitute predicate
19 unlawful and unfair business practices in violation of California’s Unfair Competition Law (“UCL”),
20 Business & Professions Code sections 17200, *et seq.* Defendants’ violations of the Labor Code are
21 unlawful acts which have afforded Defendants an unfair competitive advantage. Plaintiff is therefore
22 entitled to all remedies provided under the UCL, including restitutionary, injunctive, declaratory
23 and/or other equitable relief for a period of four years from the filing of the original complaint through
24 the date of this action’s final disposition. Plaintiff also seeks reasonable attorneys’ fees and costs
25 pursuant to, *inter alia*, Labor Code sections 2699, 1194(a), and 1198.5(l)

26 5. Plaintiff also asserts a Private Attorneys General Act (“PAGA”) claim, seeking civil
27 penalties for Defendants’ violations of the Labor Code and Wage Orders as described herein. Plaintiff
28 has complied with Labor Code section 2699.3 by giving written notice to the employer(s) and the

1 Labor and Workforce Development Agency (“LWDA”) of the alleged Labor Code and Wage Order
2 violations, and the facts and theories supporting those violations. Plaintiff has fulfilled the
3 administrative prerequisites of Labor Code section 2699.3 and is statutorily authorized to act on behalf
4 of the State of California to enforce the State’s labor and employment laws and collect civil penalties
5 on behalf of the State and current or former employees, including himself. Accordingly, Plaintiff
6 seeks to hold Defendants and other persons who violated or caused violations of the Labor Code and
7 Wage Orders liable for civil penalties owed to the State of California and other current and former
8 employees (the “PAGA Workforce”).

9 **JURISDICTION AND VENUE**

10 6. This case is subject to the jurisdiction of this court pursuant to the California Labor
11 Code and California Code of Civil Procedure.

12 7. Defendants are located and conduct business in the County of Los Angeles and
13 employed Plaintiff in said County.

14 8. Venue is proper in the Superior Court of Los Angeles because this is where the alleged
15 misconduct occurred.

16 **THE PARTIES**

17 **PLAINTIFF**

18 9. Plaintiff Jonathan Garcia is, and at all times relevant hereto was, a resident of the State
19 of California. Plaintiff Jonathan Garcia was employed a non-exempt, hourly employee at Defendants’
20 Tsuki Ramen, Exotic Thai Café, and Chili & Lime restaurants in California from approximately
21 August of 2019 until on or about February 25, 2022. Mr. Garcia worked as a dishwasher and a cook
22 for Defendants and was paid hourly. At all times relevant to this action, Mr. Garcia was denied
23 compensation for all hours worked, was denied statutory rest breaks and meal periods or wages in lieu
24 thereof, and was denied all wages owed to him timely upon the separation of employment. As
25 described herein, Plaintiff has lost money or property and has suffered injury in fact due to
26 Defendants’ conduct.

27 **DEFENDANTS**

28 10. On information and belief, Me Boon D LLC, is a Limited Liability Company registered

1 with the State of California with File No. 201835310626. On information and belief Me Boon D
2 operates the restaurants in Los Angeles under the fictitious name “Tsuki Ramen,” “Exotic Thai Cafe,”
3 and “Chili & Lime.” Me Boon D LLC and the restaurant “Tsuki Ramen” are located at 30990 Russell
4 Ranch Road, Westlake, California. Me Boon D employed Plaintiff and denied him proper
5 compensation, failing to pay him for all hours worked, for overtime, and for rest and meal period
6 premiums. When Mr. Plaintiff’s employment at Me Boon D ended, he was not timely paid all wages
7 owed. Me Boon D is sued as an employer and is liable for wages, penalties, costs and attorney’s fees
8 as described herein.

9 11. Defendant Boonpa Nongpromma is liable to Plaintiff for wages, interest, statutory
10 penalties, civil penalties, attorney’s fees and costs as alleged in this complaint, pursuant to California
11 Labor Code sections 558.1. Plaintiff is informed and believe and thereon allege that, at all times
12 relevant to this action, Ms. Nongpromma has been an owner, officer, and/or managing agent of Me
13 Boon D LLC (dba “Tsuki Ramen,” “Exotic Thai Café,” and “Chili & Lime”). Ms. Nongpromma
14 exercised authority over working conditions, hours and wages, supervised Plaintiff and other
15 employees, and set and enforced employment, labor, and payroll policies, including those at issue in
16 this action. Plaintiff is informed and believes that Ms. Nongpromma authorized or ratified the labor,
17 employment, and compensation practices which denied Plaintiff compensation for all hours worked,
18 overtime, and rest and meal premiums. Plaintiff is further informed and believes and thereon alleges
19 that Ms. Nongpromma had authority to compensate Plaintiff properly and to provide rest and meal
20 periods in conformance with the Labor Code and applicable Wage Order(s) but failed to do so. Ms.
21 Nongpromma violated or caused violations of Labor Code sections 203, 226, 226.7, 1193.6, 1194, and
22 provisions regulating minimum wages and hours and days of work in Wage Order 5, as described
23 herein. Consequently, Ms. Nongpromma is liable to Plaintiff for wages, interest, statutory penalties,
24 attorney’s fees and cost of suit as the employer under Labor Code section 558.1.

25 12. The true names and capacities, whether individual, plural, corporate, partnership,
26 associate, or otherwise, of DOES 1 through 20, inclusive, are unknown to Plaintiff who are therefore
27 sued under such fictitious names. The full extent of the facts linking such fictitiously sued Defendants
28 is unknown to Plaintiff.

13. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants designated herein as a Doe was, and is, legally responsible in some manner for the unlawful acts referred to herein. Each Doe defendant is liable as an employer, joint employer or person who caused the alleged violations. Plaintiff will hereafter seek leave of the Court to amend this Complaint to show the Defendants' true names and capacities after the same have been ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named defendants is legally responsible in some manner for the events and occurrences alleged herein, and for the damages suffered by Plaintiff.

14. Plaintiff is informed and believe, and thereon allege, that at all times mentioned herein, all Defendants, including DOE defendants, and each of them, were agents, servants, employees, successors in interest, and/or joint venturers of their co-Defendants, and were, as such, acting within the course, scope, and authority of said agency, employment, and/ or venture, and with the consent of their co-Defendants, and/or said acts were ratified by their co-Defendants, and that each and every Defendant, as aforesaid, when acting as a principal, was negligent in the selection and hiring, training, and supervision of each and every other Defendant as an agent, servant, employee, successor in interest, and/or joint venture.

FACTUAL ALLEGATIONS

15. Jonathan Garcia worked for Defendants for several years. From approximately August of 2019 to approximately February 25, 2022. During this time, he was denied proper compensation for all hours worked and for overtime and was denied rest and meal periods or additional wages in lieu thereof. When his employment with Defendants ended, Plaintiff Garcia was not timely paid all wages owed to him, entitling him to waiting time penalties.

16. Plaintiff usually worked more than eight hours per workday, six days per workweek, and it was not unusual for them to work more than 12 hours in a workday or to work on the seventh day of the workweek. Plaintiff was not paid overtime wages for hours in excess of eight in a workday or 40 in a workweek. Plaintiff was also denied double-time premiums for hours in excess of 12 in a workday and eight on the seventh day of the workweek. Instead, Plaintiff was paid at his regular rate for any overtime hours worked, and Defendant Nongpromma told him, “I don’t pay overtime.”

17. During Plaintiff's employment with Defendants, they were not relieved of all duty for

1 the requisite number of rest breaks required per the length of shift. Defendants failed to authorize and
2 permit net-10 minutes of rest at the rate of two breaks for shifts greater than six hours and up to 10
3 hours, three breaks for shifts greater than 10 hours and up to 14 hours, and four breaks for shifts
4 greater than 14 hours and up to 18 hours. Despite the routine failure to authorize and permit proper rest
5 periods, Defendants failed to pay Plaintiff additional wages for rest breaks that were not properly
6 authorized and permitted.

7 18. Similarly, Plaintiff was rarely if ever relieved of all duty for timely, uninterrupted meal
8 periods, and he was rarely, if ever, relieved of all duty for a second meal period when the shift
9 exceeded 10 hours. Despite the routine failure to provide proper meal periods, Defendants failed to
10 pay Plaintiff additional wages for meal period non-compliance.

11 19. Plaintiff's employment with Defendants ended in or around February 25, 2022.
12 Defendants failed to pay Plaintiff all wages owed timely upon the termination of the employment
13 relationship, including wages for all hours work, for overtime, and for rest and meal period premiums.

14 **FIRST CAUSE OF ACTION**

15 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

16 (Violation of Lab. Code §§ 204, 223, 226.2, 1194, 1197, and 1198)

17 Plaintiff Against all Defendants

18 20. Plaintiff realleges and incorporates in this cause of action each and every allegation of
19 the preceding paragraphs, with the same force and effect as though fully set forth herein.

20 21. Defendants are required to compensate employees for all hours worked pursuant to the
21 Industrial Welfare Commission Order 5-2001 and California Labor Code sections 204, 1194, 1197, and
22 1198.

23 22. California Labor Code section 1197 makes it unlawful for an employer to pay an
24 employee less than the minimum wage required under the applicable Wage Orders for all hours
25 worked.

26 23. California Labor Code section 223 makes it unlawful to secretly pay below the rate
27 designated by statute or agreement while purporting to comply with the rate designated by contract or
28 statute.

1 24. California Labor Code section 204 requires payment of all wages earned bi-weekly or
2 semi-monthly on the regularly-established pay dates.

3 25. Defendants violated the provisions of Labor Code sections 204, 223, 1194, 1197 and
4 1198, and Wage Order 5, by failing to pay for all hours worked and for overtime.

5 26. Plaintiff routinely worked daily and weekly overtime. Their daily shifts usually
6 exceeded eight and often 12 hours of work in a 24-hour period. He also worked six days per week and
7 sometimes seven days in a workweek, routinely exceeding 40 hours in a workweek without overtime
8 pay. The salary he received only compensated Plaintiff for non-overtime hours, resulting in a large
9 number of daily and weekly overtime hours going completely uncompensated.

10 27. California Labor Code section 1194 entitles employees to bring an action to recover
11 wages, interest, attorney's fees and cost of suit for failure to pay all hours worked and violation of the
12 minimum wage. California Labor Code section 1194.2 entitles Plaintiff to seek liquidated damages for
13 violations of the minimum wage.

14 28. The violations described herein, including but not limited to the violations of Labor
15 Code sections 1194 serve as predicate violations under PAGA. Plaintiff Magana has complied with
16 the administrative procedures set forth in California Labor Code § 2699.3 to bring a claim for civil
17 penalties under PAGA, and as such seeks civil penalties on behalf of himself, the State of California
18 and the PAGA Workforce. Civil Penalties are sought against all Defendants pursuant to Labor Code
19 § 200, 204, 204b, 210, 223, 510, 511, 558, 1194, 1194.2, 1197, 1197.1, 1198, 2699(f) and 2698, et seq.

20 29. Pursuant to Labor Code section 558.1, any employer or other person (i.e., owner,
21 officer, director or managing agent) acting on behalf of an employer who violates or causes a violation
22 of Labor Code section 1194 may be held liable as the employer. Defendant Nongpromma is liable as
23 the employer for violating and causing the violations described herein.

24 30. Plaintiff seeks wages and interest thereon in an amount to be established at trial and is
25 entitled to recover attorneys' fees and costs of suit, pursuant to Labor Code section 1194. Plaintiff also
26 seeks liquidated damages for violation of the minimum wage, pursuant to Labor Code section 1194.2.

27 **SECOND CAUSE OF ACTION**

28 **VIOLATION OF OVERTIME LAWS**

(Cal. Lab. Code §§ 510, 515, 1185, 1194, IWC Wage Order 5-2001)

Plaintiff Against all Defendants

31. Plaintiff realleges and incorporates herein by reference each and every allegation and statement contained in the prior paragraphs, as though fully set forth herein.

32. California Labor Code section 510 and Wage Order 5 mandate employers, including Defendants, to pay premium wages for hours worked in excess of 8 in a workday and 40 in a workweek.

33. Defendants violated the provisions of Labor Code section 510 and Wage Order 5 by paying Plaintiff at his regular rate for all overtime hours worked.

34. Plaintiff often worked more than eight hours and often more than 12 hours each workday without overtime pay. He also worked six days per week and sometimes seven, exceeding 40 hours in a workweek without overtime pay. Instead, Plaintiff was paid at his regular rate for all overtime hours worked.

35. California Labor Code section 1194 entitles employees to bring an action to recover wages, interest, attorney's fees and cost of suit for failure to pay overtime wages.

36. The violations described herein, including but not limited to the violations of Labor Code sections 510, 1194, and 1198 serve as predicate violations under PAGA. Plaintiff has complied with the administrative procedures set forth in California Labor Code § 2699.3 to bring a claim for civil penalties under PAGA, and as such seeks civil penalties on behalf of himself, the State of California and the PAGA Workforce. Civil Penalties are sought against all Defendants pursuant to Labor Code §§ 200, 204, 204b, 210, 223, 226.3, 256, 510, 511, 558, 1194, 1194.2, 1197, 1197.1, 1198, 2699(f) and 2698, et seq.

37. Pursuant to Labor Code section 558.1, any employer or other person (i.e., owner, officer, director or managing agent) acting on behalf of an employer who violates or causes a violation of Labor Code section 1194 may be held liable as the employer. Defendant Nongpromma is liable as the employer for violating and causing the violations described herein.

38. Plaintiff seeks overtime wages, interest, attorney's fees and costs of suit pursuant to Labor Code sections 1194.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE REST BREAKS OR COMPENSATION IN LIEU THEREOF**

3 (Violation of California Labor Code § 226.7 and IWC Wage Order 5)

4 Plaintiff Against all Defendants

5 39. Plaintiff realleges and incorporates herein by reference each and every allegation and
6 statement contained in the prior paragraphs, as though fully set forth herein.

7 40. California Labor Code § 226.7 states:

8 No employer shall require any employee to work during any meal or rest period
9 mandated by an applicable order of the Industrial Welfare Commission.”

10 If an employer fails to provide an employee a meal period or rest period in accordance
11 with an applicable order of the Industrial Welfare Commission, the employer shall pay
12 the employee one additional hour of pay at the employees regular rate of compensation
for each work day that the meal or rest period is not provided.

13 41. IWC Wage Orders provide with respect to rest periods as follows:

14 (A) Every employer shall authorize and permit all employees to take rest periods, which
15 insofar as practicable shall be in the middle of each work period. The authorized rest
16 period time shall be based on the total hours worked daily at the rate of ten (10) minutes
17 net rest time per four (4) hours or major fraction thereof. However, a rest period need
not be authorized for employees whose total daily work time is less than three and one-
half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for
which there shall be no deduction from wages.

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

21 42. Defendants failed to authorize and permit statutory rest breaks at the mandatory rate of
22 one break for shifts greater than 3.5 hours up to six hours, two breaks for shifts greater than six hours
23 and up to 10 hours, three breaks for shifts greater than 10 hours and up to 14 hours, and so on. Plaintiff
24 was not relieved of all duty for proper rest breaks, was discouraged from taking rest breaks, and was
25 routinely required to work through rest periods.

26 43. Defendants failed to pay rest period premiums to Plaintiff in lieu of proper rest periods.

27 44. The violations described herein, including but not limited to the violations of Labor
28 Code section 226.7 serve as predicate violations under PAGA. Plaintiff has complied with the

1 administrative procedures set forth in California Labor Code § 2699.3 to bring a claim for civil
2 penalties under PAGA, and as such seeks civil penalties on behalf of himself, the State of California
3 and the PAGA Workforce. Civil Penalties are sought against all Defendants pursuant to Labor Code
4 §§ 558, 2699(f) and 2698, et seq.

5 45. Pursuant to Labor Code section 558.1, any employer or other person (*i.e.*, owner,
6 officer, director or managing agent) acting on behalf of an employer who violates or causes a violation
7 of Labor Code section 226.7 may be held liable as the employer. Defendant Nongpromma is liable as
8 the employer for violating and causing the violations described herein.

9 46. Wherefore, Plaintiff seeks rest breaks premiums and interest thereon pursuant to the
10 Wage Orders and Labor Code section 226.7.

11 **FOURTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF**

13 (Violation of California Labor Code §§ 226.7, 512, IWC Wage Order 5)

14 Plaintiff Against all Defendants

15 47. Plaintiff realleges and incorporates herein by reference each and every allegation and
16 statement contained in the prior paragraphs, as though fully set forth herein.

17 48. California Labor Code § 226.7 states:

18 (a) No employer shall require any employee to work during any meal or rest period
19 mandated by an applicable order of the Industrial Welfare Commission.

20 (b) If an employer fails to provide an employee a meal period or rest period in
21 accordance with an applicable order of the Industrial Welfare Commission, the
22 employer shall pay the employee one additional hour of pay at the employee's regular
rate of compensation for each work day that the meal or rest period is not provided.

23 49. Section 512(a) of the California Labor Code provides, in relevant part, that:

24 An employer may not employ an employee for a work period of more than five hours
25 per day without providing the employee with a meal period of not less than 30 minutes,
26 except that if the total work period per day of the employee is no more than six hours,
the meal period may be waived by mutual consent of both the employer and employee.
27 An employer may not employ an employee for a work period of more than 10 hours per
day without providing the employee with a second meal period of not less than 30
28 minutes, except that if the total hours worked is no more than 12 hours, the second meal
period may be waived by mutual consent of the employer and the employee only if the

1 first meal period was not waived.

2 50. IWC Wage Order 2-2001 § 11 states:

3 (A) No employer shall employ any person for a work period of more than five (5) hours
4 without a meal period of not less than 30 minutes, except that when a work period of not
5 more than six (6) hours will complete the day's work the meal period may be waived by
6 mutual consent of the employer and employee. Unless the employee is relieved of all
7 duty during a 30 minute meal period, the meal period shall be considered an "on duty"
8 meal period and counted as time worked. An "on duty meal period shall be permitted
9 only when the nature of the work prevents an employee from being relieved of all duty
10 and when by written agreement between the parties an on-the-job paid meal period is
11 agreed to. The written agreement shall state that the employee may, in writing revoke
12 the agreement at any time.

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

17 51. Defendants failed to relieve Plaintiff of all duty for timely, uninterrupted meal periods
18 lasting at least 30 minutes, or second meal periods during shifts greater than 10 hours. Plaintiff was
19 required routinely to work without a meal period and discouraged from taking meal periods.
20 Defendants failed to pay meal period premiums to Plaintiff for unprovided, short, and untimely meal
21 periods.

22 52. The violations described herein, including but not limited to the violations of Labor
23 Code sections 512 and 226.7 serve as predicate violations under PAGA. Plaintiff has complied with
24 the administrative procedures set forth in California Labor Code section 2699.3 to bring a claim for
25 civil penalties under PAGA, and as such seeks civil penalties on behalf of himself, the State of
26 California and the PAGA Workforce. Civil Penalties are sought against all Defendants pursuant to
27 Labor Code sections 558, 2699(f) and 2698, et seq.

28 53. Pursuant to Labor Code section 558.1, any employer or other person (*i.e.*, owner,
officer, director or managing agent) acting on behalf of an employer who violates or causes a violation
of Labor Code section 226.7 may be held liable as the employer. Defendant Nongpromma is liable as
the employer for violating and causing the violations described herein.

54. Plaintiff seeks meal period premiums and interest thereon pursuant to the Wage Orders
and Labor Code sections 226.7 and 512.

1 **FIFTH CAUSE OF ACTION**

2 **Waiting Time Penalties (Labor Code §§ 201-203)**

3 Plaintiff Against all Defendants

4 55. Plaintiff realleges and incorporate herein by reference each and every allegation and
5 statement contained in the prior paragraphs, as though fully set forth herein.

6 56. Labor Code section 201(a) provides that “If an employer discharges an employee, the
7 wages earned and unpaid at the time of discharge are due and payable immediately....”

8 57. Under Labor Code section 202(a), if the employee “quits his or her employment, his or
9 her wages shall become due and payable not later than 72 hours thereafter, unless the employee has
10 given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to
11 his or her wages at the time of quitting.”

12 58. Employers who violate Labor Code sections 201 and 202 are liable for waiting time
13 penalties pursuant to Labor Code section 203(a), which states:

14 If an employer willfully fails to pay, without abatement or reduction, in accordance with
15 Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an
16 employee who is discharged or who quits, the wages of the employee shall continue as a
17 penalty from the due date thereof at the same rate until paid or until an action therefor is
commenced; but the wages shall not continue for more than 30 days....

18 59. Plaintiff’s employment at Tsuki Ramen ended in or around February 25, 2022. At the
19 time his employment ended, Defendants failed to pay him all wages owed timely, including all rest
20 and meal premiums owed, all overtime wages, and all regular wages earned but unpaid. This failure
21 was, in part, a result of Defendants’ practice of paying Plaintiff at his regular rate for all overtime
hours worked.

22 60. The violations described herein, including but not limited to the violations of Labor
23 Code section 203 serve as predicate violations under PAGA. Plaintiff Magana has complied with the
24 administrative procedures set forth in Labor Code section 2699.3 to bring a claim for civil penalties
25 under PAGA, and as such seeks civil penalties on behalf of himself, the State of California and the
26 PAGA Workforce. Civil Penalties are sought against all Defendants pursuant to Labor Code
27 sections 256, 1197.1, 2699(f) and 2698, et seq.
28

61. Pursuant to Labor Code section 558.1, any employer or other person (*i.e.*, owner, officer, director or managing agent) acting on behalf of an employer who violates or causes a violation of Labor Code section 203 may be held liable as the employer. Defendant Nongpromma is liable as the employer for violating and causing the violations described herein.

62. Plaintiff seeks waiting time penalties pursuant to Labor Code section 203.

SIXTH CAUSE OF ACTION

California's Unfair Competition Law, Bus. & Prof. Code §§ 17200 *et seq.*

Plaintiff Against all Defendants

63. Plaintiff realleges and incorporates herein by reference each and every allegation and statement contained in the prior paragraphs, as though fully set forth herein.

64. Section 17200 of the California Business and Professions Code (the “UCL”) prohibits any unlawful, unfair, or fraudulent business practices.

65. Through its action alleged herein, Defendants have engaged in unfair competition within the meaning of the UCL by failing to compensate Plaintiff all wages owed, failing to pay overtime premiums, and failing to pay rest and meal period premiums. These acts, (among others alleged herein) constitute unlawful, unfair, and/or fraudulent business practices under the UCL.

66. Plaintiff has standing to assert this claim because they have suffered injury in fact and have lost money as a result of Defendants' conduct.

67. Plaintiff seeks restitutionary disgorgement from Defendants as well as injunctive and declaratory relief.

SEVENTH CAUSE OF ACTION

California Private Attorney General Act, Labor Code sections 2698, et seq.

Plaintiff, on Behalf of the State and Aggrieved Employees, Against All Defendants

68. Plaintiff re-alleges and incorporates the above allegations above as if fully stated herein.

69. Plaintiff brings this cause of action on behalf the State of California with respect to the labor law violations he and all other current or former non-exempt employees experienced during the

1 relevant time-period as alleged in this complaint.

2 70. Defendants violated the Labor Code by failing to compensate Plaintiff and other current
3 and former employees for all hours worked, including hours worked at the start and end of work days,
4 during unpaid meal periods in violation of the state's minimum wage and overtime laws. Defendants
5 also failed to pay meal period and rest break premium wages at the statutory or required rates of pay,
6 failed to maintain accurate time and payroll records, and maintaining policies and practices described
7 in this complaint. As such, Defendants have violated the Plaintiff's rights and, on information and
8 belief, the rights of other current or former employees who worked for Defendants as non-exempt
9 employees.

10 71. PAGA permits an individual to recover civil penalties on behalf of themselves and
11 other current or former employees for violations of the Labor Code. Labor Code section 2699(a).

12 72. Defendants are liable for civil penalties under PAGA for the Wage Order and Labor
13 Code violations described in this complaint. Plaintiff alleges that Defendants violated: sections 201-
14 202, 256 and 1197.1 subjecting Defendants to liability for waiting time penalties based on willful
15 (section 203) failure to pay all wages owed timely upon separation from employment; sections 200,
16 204, 204b, and 210 by failing to pay all wages owed weekly, semi-monthly or when due; sections 221,
17 223 for secretly paying less than the statutory or contractual rate; sections 510, 511 and 1198 for
18 failing to pay overtime; sections 558 and 1197.1 for penalties for violation of the minimum wage and
19 failure to pay all overtime; sections 1174 and 1174.5 for failing to maintain required payroll records;
20 and sections 1194, 1194.2 , 1197 and 1197.1 for failure to pay minimum wage or paying less than the
21 applicable state or local law.

22 73. Defendants are liable for civil penalties for failure to maintain accurate records—
23 showing when an employee begins and ends each work period, as well as total hours worked in the
24 payroll period and applicable rates of pay—pursuant to Labor Code sections 1174.5 and 2698 et seq.

25 74. Defendants are liable for civil penalties for failure to compensate for all hours worked,
26 pursuant to Labor Code sections 200, 204, 204b, 210, 223, 510, 511, 558, 1194, 1194.2, 1197, 1197.1,
27 1198, and 2698 et seq.

28 75. Defendants are liable for civil penalties for failure to compensate for all overtime

1 premium wages pursuant to Labor Code sections 200, 204, 204b, 210, 223, 510, 511, 558, 1194,
2 1194.2, 1197, 1197.1, 1198, and 2698 et seq.

3 76. Defendants are liable for civil penalties for failure to pay all wages owed at termination
4 or resignation pursuant to Labor Code sections 201, 202, 203, 256, 558, 558.1, 1197.1, 2699(f) and
5 2698 et seq.

6 77. PAGA permits an individual to recover civil penalties on behalf of himself, the State,
7 and all other current or former employees for violations of the Labor Code. Labor Code § 2699(a).

8 78. Plaintiff has complied with Labor Code section 2699.3 by giving written notice to
9 Defendants and the LWDA of the alleged Labor Code and Wage Order violations, and the facts and
10 theories supporting those violations.

11 79. Wherefore, Plaintiff seeks civil penalties for himself, the State of California, the PAGA
12 Workforce, as well as attorney's fees, costs and interest, in amounts subject to proof at trial.

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff demands a trial by jury on all claims so triable.

15 **PRAYER FOR RELIEF**

16 Wherefore, Plaintiff prays for the following forms of relief:

17 1. For penalties pursuant to all provisions of the Labor Code referenced herein which
18 provide for penalties as a result of the conduct alleged herein, including waiting time penalties
19 pursuant to Labor Code section 203;

20 2. For costs of suit incurred herein and attorneys' fees pursuant to the statutes cited herein,
21 including Labor Code section 1194 and California Code of Civil Procedure section 1021.5;

22 3. For compensatory damages and wages pursuant to Labor Code sections 1194, 223,
23 1197, 204, 210;

24 4. For liquidated damages pursuant to Labor Code section 1194.2;

25 5. For overtime compensation and overtime premiums pursuant to Labor Code sections
26 510 and 1194;

27 6. For restitution of all monies due to Plaintiff from the unlawful business practices of
28 Defendants, pursuant to the UCL;

1 7. For injunctive and declaratory relief under the UCL;

2 8. For an award of civil penalties payable to Plaintiff, the State of California, and other
3 current or former employees under PAGA for each violation of the Labor Code and Wage Order
4 described in this complaint, including but not limited to penalties under Labor Code sections 200, 204,
5 204b, 210, 223, 226.7, 256, 510, 512, 558, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2699(a),
6 2699(f), and other provisions described in this complaint.

7 9. For an award of attorneys' fees and costs pursuant to Labor Code section 2699(g).

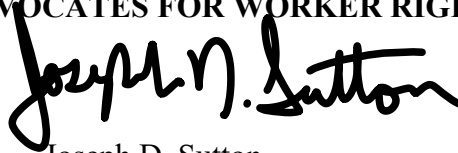
8 10. For pre-judgment and post-judgment interest as provided by law, pursuant to Labor
9 Code section 218.6;

10 11. For such other and further relief as this Court deems just and proper.

11 Respectfully submitted.

12
13
14
15
16 Dated: April 21, 2023

ADVOCATES FOR WORKER RIGHTS LLP

17 

18 Joseph D. Sutton
19 Attorneys for Plaintiffs
20
21
22
23
24
25
26
27
28