

Eric K. Yaeckel [CSB No. 274608]
yaeckel@sullivanlawgroupapc.com
Ryan T. Kuhn [CSB No. 324538]
ryan@sullivanlawgroupapc.com
Karoline D. Kitlowski [CSB No. 347692]
karoline@sullivanlawgroupapc.com
SULLIVAN & YAECKEL LAW GROUP, APC
2330 Third Avenue
San Diego, California 92101
(619) 702-6760 * (619) 702-6761 FAX

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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Jacqueline J. Walters, Deputy Clerk

Attorneys for Plaintiff AMANDA ROGERS, in a Representative capacity only, and on behalf of other members of the general public similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

AMANDA ROGERS, in a Representative capacity only, and on behalf of other members of the general public similarly situated,

Plaintiff

v.

PACIFICA COMPANIES LLC, a California Limited Liability Company; PACIFICA HOSTS, INC., a Nevada Corporation; OASIS OUTSOURCING, LLC, a Florida Limited Liability Company; PROSPECT HOSPITALITY LP, a California Limited Partnership; and DOES 1-10, inclusive

Defendants

CASE NO. 37-2023-00023685-CU-OE-CTL

COMPLAINT FOR:

1. MEAL AND REST PERIOD VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.*
2. MINIMUM WAGE VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.*
3. OVERTIME VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.*
4. WAGE STATEMENT VIOLATIONS PURSUANT TO LABOR CODE § 2698 *et seq.*
5. FAILURE TO REIMBURSE PURSUANT TO LABOR CODE § 2698 *et seq.*
6. FAILURE TO PAY WAGES UPON SEPARATION PURSUANT TO LABOR CODE § 2698 *et seq.*

COMES NOW Plaintiff AMANDA ROGERS ("Plaintiff"), in a Representative capacity only, on behalf of all aggrieved employees, and on behalf of other members of the general public similarly situated, and alleges for her complaint as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Court has jurisdiction over this matter in that all parties are residents of, or do business within, the State of California and the amount in controversy exceeds the statutory minimum limit of this Court. The monetary damages and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. Furthermore, there is no federal question at issue as Wage and Hour protections and remedies related thereto are based solely on California Law and Statutes, including the Labor Code, Civil Code, and IWC Wage Order(s). Also, the Ninth Circuit has recently held that, for purposes of establishing federal diversity jurisdiction, penalties pursuant to the Private Attorneys General Act of 2004 ("PAGA") may **not** be aggregated. *Urbino v. Orkin Servs. of California, Inc.*, 726 F.3d 1118, 1122 (9th Cir. 2013).
2. Venue before this Court is proper in that certain wrongful acts which gave rise to Plaintiff's injuries occurred in the County of San Diego, State of California.
3. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant PACIFICA COMPANIES LLC, (Referred to herein as "Defendants" or "PACIFICA"), was and is a California Limited Liability Company doing business throughout the state, including the County of San Diego, State of California. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant PACIFICA HOSTS, INC., (Referred to herein as "Defendants" or "PACIFICA"), was and is a Nevada Corporation doing business throughout the state, including the County of San Diego, State of California. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein, Defendant OASIS OUTSOURCING, LLC, (Referred to herein as "Defendants" or "PACIFICA"), was and is a Florida Limited Liability Company doing business throughout the state, including the County of San Diego, State of California. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned herein,

1 Defendant PROSPECT HOSPITALITY LP, (Referred to herein as "Defendants" or
2 "PACIFICA"), was and is a California Limited Partnership doing business throughout the state,
3 including the County of San Diego, State of California.

4 4. Plaintiff is presently unaware of the true names, capacities and liability of Defendants named
5 herein as DOES 1 through 10, inclusive. Accordingly, Plaintiff will seek leave of court to
6 amend this complaint to allege their true names and capacities after the same have been
7 ascertained.

8 5. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named
9 Defendants is responsible in some manner for the wrongs and damages as herein alleged, and
10 in so acting was functioning as the agent, servant, partner, and employee of the co-defendants,
11 and in doing the actions mentioned below, was acting within the course and scope of his or her
12 authority as such agent, servant, partner, and employee with the permission and consent of the
13 co-defendants. Plaintiff's injuries as herein alleged were proximately caused by said
14 defendants. Wherever it is alleged herein that any act or omission was done or committed by
15 any specially named Defendant or Defendants, Plaintiff intends thereby to allege and does
16 allege that the same act or omission was also done and committed by each and every defendant
17 named as a DOE, both separately and in concert with the named Defendant or Defendants.

18 6. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
19 including DOES 1 through 10, are and at all times herein mentioned were either individuals,
20 sole proprietorships, partnerships, registered professionals, corporations, alter egos or other
21 legal entities which were licensed to do and/or were doing business in the County of San
22 Diego, State of California at all times relevant to the subject matter of this action.

23 FACTUAL BACKGROUND

24 7. On or about April 13, 2021, Plaintiff commenced working for Defendants. Plaintiff's
25 employment with Defendants has lasted through February 2, 2023. Throughout her
26 employment with Defendants, Plaintiff has performed her job in a capable and competent
27 manner and has been commended for doing so.

28 8. Throughout the term of her employment, Plaintiff and all other aggrieved employees were, and

- 1 currently are, denied the benefits and protections of the Labor Code due to Defendants'
2 institutionalized pay practices, standard as to all of Defendants' California-based employees.
- 3 9. On March 30, 2023, counsel for Plaintiff prepared and submitted via online filing a letter to
4 the California Labor & Workforce Development Agency ("LWDA"). Plaintiff also mailed a
5 courtesy copy of this letter to the LWDA via USPS Mail. A copy of the letter was mailed to
6 Defendants, via USPS Certified Mail. The letter contained the specific provisions of the
7 California Labor Code and Business and Professions Code violated by Defendants, as well as
8 the facts and theories in support of Plaintiff's claims. (Please see **Exhibit 1**, a true and correct
9 copy of this letter.)
- 10 10. The statutory time period for the LWDA to investigate and/or respond, and for the employer
11 to respond, has concluded.

12 REPRESENTATIVE ALLEGATIONS

- 13 11. As more specifically set forth below, Plaintiff brings this action in a representative capacity on
14 behalf of all current and former aggrieved employees of Defendants. Code Civ. Proc. § 2699;
15 *Arias v. Superior Court* (2009) 46 Cal. 4th 969, 980-981. Throughout the operative limitations
16 period, Plaintiff and all other aggrieved employees were denied the protections and benefits
17 of the Labor Code due to Defendants' standard practices. Throughout their employment,
18 Plaintiff and all other aggrieved employees were and are denied full and accurate
19 compensation, including overtime compensation, in violation of, *inter alia*, Labor Code
20 sections 510, 1194, and 1197. Plaintiff and the other aggrieved employees were and are denied
21 Meal and Rest Periods and Meal and Rest Period payments, in violation of, *inter alia*, Labor
22 Code sections 226.7 and 512. Defendants failed to furnish accurate itemized wage statements
23 in violation of, *inter alia*, Labor Code section 226. Defendants failed to reimburse Plaintiff
24 and other aggrieved employees for necessary business expenditures in violation of, *inter alia*,
25 Labor Code section 2802. Defendants failed to provide all compensation due at termination
26 of employment in violation of, *inter alia*, Labor Code sections 201 through 203.
- 27 12. Plaintiff brings this action on the grounds that she and other current and former aggrieved
28 employees of Defendants were and are improperly denied the mandated wages resulting from

1 within the relevant sections of the California Labor Code.

2 17. Plaintiff has exhausted her administrative remedies and pre-filing requirements pursuant to
3 California Labor Code section 2699.3, and has also fulfilled all notice requirements under the
4 statute.

5 18. Throughout the operative limitations period, Plaintiff and all other aggrieved employees were
6 denied the protections and benefits of the Labor Code and IWC Wage Order(s) due to
7 Defendants' standard practices. Said violations are set forth below.

8 **FIRST CAUSE OF ACTION**
9 **Meal and Rest Period Violations Pursuant to Labor Code § 2698 et seq.**
10 **Representative Action**
11 **(By Plaintiff against Defendants and DOES 1 through 10)**

12 19. Plaintiff hereby incorporates by reference paragraphs 1 through 18 as though fully set forth
13 herein.

14 20. Labor Code section 1198 states:

15 The maximum hours of work and the standard conditions of labor fixed
16 by the commission shall be the maximum hours of work and the
17 standard conditions of labor for employees. The employment of any
18 employee for longer hours than those fixed by the order or under
19 conditions of labor prohibited by the order is unlawful.

20 Defendants violated this section by establishing working conditions below the standard of the
21 applicable Wage Order.

22 21. Under applicable California law, "An employer may not employ an employee for a work period
23 of more than five hours per day without providing the employee with a Meal Period of not less
24 than 30 minutes [...] An employer may not employ an employee for a work period of more than
25 10 hours per day without providing the employee with a second Meal Period of not less than
26 30 minutes" Lab. Code § 512(a); see also 8 Cal. Code Regs. § 11050 (11)(A).

27 22. Unless the employee is relieved of all duty during a thirty (30) minute Meal Period, the Meal
28 Period shall be considered an "on duty" Meal Period and counted as time worked. 8 Cal. Code
Regs. § 11050 (11).

California law requires employers to provide nonexempt employees with a 10-minute Rest
Period for every four hours worked, or "major fraction thereof." 8 Cal. Code Regs. § 11050

- 1 (11).
- 2 24. An employer who fails to provide Meal or Rest Periods as required by an applicable Wage
- 3 Order must pay the employee one additional hour of pay at the employee's regular rate of pay
- 4 for each workday that the Meal or Rest Period was not provided. Lab. Code § 226.7(b); 8 Cal.
- 5 Code Regs. § 11050 (11), (12).
- 6 25. Within the operative time period, Defendants failed to possess compliant Meal and Rest Period
- 7 policies.
- 8 26. For example, Defendants do not possess a legal Meal Period policy or legal Rest Period policy,
- 9 and makes no attempt to ensure that its employees are either timely or wholly provided Meal
- 10 Periods or Rest Periods.
- 11 27. Defendants would also pressure employees to either skip, or cut short, Meal Periods and Rest
- 12 Periods, based on customer needs.
- 13 28. In addition, Defendants had notice of Plaintiff working outside of her scheduled and/or
- 14 reported hours, as well as within her Meal and Rest Periods, but failed to provide any
- 15 compensation for this work-time.
- 16 29. Defendants willfully failed and refused to pay Plaintiff and all other aggrieved employees one
- 17 additional hour of pay at their regular rate of pay for all workdays that a Meal or Rest Period
- 18 was not provided, as required by Labor Code section 226.7 and IWC Wage Order 5 § (11),
- 19 (12).
- 20 30. Any payments made by Defendants for non-compliant Meal Periods were not paid at the
- 21 employee's regular rate in violation of Labor Code section 226.7 and the operative IWC Wage
- 22 Orders. Instead, these payments were made at an employee's base rate and did not include the
- 23 value of, *inter alia*, all actual compensation owed, and/or all employee benefits such as, for
- 24 example, non-discretionary compensation, and other employee benefits.
- 25 31. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
- 26 Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be
- 27 proven at trial.
- 28 32. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on

1. behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
2. and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
3. penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
4. Prayer For Relief.

5. 33. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
6. pursuant to Labor Code sections 2699(a) for each of these employees.

7. 34. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
8. section 2699(g)(1).

9. **SECOND CAUSE OF ACTION**
10. **Minimum Wage Violations Pursuant to Labor Code § 2698 et seq.**
11. **Representative Action**
12. **(By Plaintiff against Defendants and DOES 1 through 10)**

13. 35. Plaintiff hereby incorporates by reference paragraphs 1 through 34 as though fully set forth
14. herein.

15. 36. Defendants failed to pay its employees all compensation due in violation of, among other
16. statutes, Labor Code section 1197. California law holds that the failure to pay for any work
17. time constitutes a violation of minimum wage laws. *Armenta v. Osmose, Inc.*, (2005) 135 Cal.
18. App.4th 314, 323. These violations were caused by and through Defendants' failure to
19. maintain accurate Time Records (as required by California law), to the detriment of the
20. employees. Specifically, although Defendants would receive "to-the-minute" start and end
21. times (from their employees' mandated timekeeping practices), Defendants would thereafter
22. alter - and deduct time from - the Time Records, prior to payment of compensation to the
23. employees. Additionally, the right to receive the proper minimum wage compensation was
24. impacted by Defendants knowingly failing to consider other work performed by the employees,
25. including all time employees were under Defendants' control. These actions, and instructions,
26. caused the employees to lose compensation, including proper minimum wage compensation
27. and overtime compensation.

28. 37. As a result of Defendants' failure to comply with the provisions of the Labor Code, Plaintiff
and all other aggrieved employees have been damaged in an amount to be proven at trial.

1 38. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
2 behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
3 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
4 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
5 Prayer For Relief.

6 39. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
7 pursuant to Labor Code sections 2699(a) for each of these employees.

8 40. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
9 section 2699(g)(1).

10 **THIRD CAUSE OF ACTION**
11 **Overtime Violations Pursuant to Labor Code § 2698 et seq.**
12 **Representative Action**
13 **(By Plaintiff against Defendants and DOES 1 through 10)**

14 41. Plaintiff hereby incorporates by reference paragraphs 1 through 40 as though fully set forth
15 herein.

16 42. Defendants failed to pay Plaintiff and all other aggrieved employees all compensation,
17 including overtime compensation, due in violation of, among other statutes, Labor Code
18 section 510. These violations occurred due to Defendants' illegal policies, referenced above,
19 whereby employees experienced monetary under-compensation. The systematic failure to
20 provide proper overtime compensation is a violation of California law.

21 43. Additionally, Defendants also failed to provide the actual Overtime Rate of Pay by ignoring
22 certain compensation when calculating the Regular Rate of Pay including, but not limited to,
23 shift differentials, various forms of bonus and/or incentive pay, and the value of employee
24 benefits and employee discounts, in violation of Labor Code section 510.

25 44. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
26 Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be
27 proved at trial.

28 45. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,

1 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
2 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
3 Prayer For Relief.

4 46. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
5 pursuant to Labor Code sections 2699(a) for each of these employees.

6 47. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
7 section 2699(g)(1).

8 **FOURTH CAUSE OF ACTION**
9 **Wage Statement Violations Pursuant to Labor Code § 2698 et seq.**
10 **Representative Action**
11 **(By Plaintiff against Defendants and DOES 1 through 10)**

12 48. Plaintiff hereby incorporates by reference paragraphs 1 through 47 as though fully set forth
13 herein.

14 49. Defendants failed to provide Plaintiff and all other aggrieved employees with accurate itemized
15 wage statements in violation of, among other statutes, Labor Code section 226. These
16 violations include, but are not limited to, Defendants' failure to accurately identify all
17 applicable regular and overtime (including double-time) rates of pay in violation of section
18 226(a)(9), and providing inaccurate representations of both "gross" and "net wages."
19 Defendants also failed to accurately list "all applicable hourly rates in effect during the pay
20 period and the corresponding number of hours worked at each hourly rate," in violation of
21 226(a)(9). Defendants also failed to provide an accurate showing of the "total hours worked,"
22 in violation of Labor Code section 226(a)(2). For example, Defendants had notice of
23 employees working outside of their scheduled and/or reported hours, as well as within Meal
24 and Rest Periods, but did not provide compensation.

25 50. Further, the Defendants' wage statement listings are confusing and employees cannot readily
26 ascertain their total hours worked, applicable rates, and all gross and net wages. As one
27 example, Defendants are apparently using a time calculating system other than "minutes", but
28 without explanation to the employees within the wage statement.

51. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor

Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be proven at trial.

52. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3, and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these penalties pursuant to Labor Code section 2699, as more specifically set forth in the below Prayer For Relief.

53. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants pursuant to Labor Code sections 2699(a) for each of these employees.

54. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code section 2699(g)(1).

FIFTH CAUSE OF ACTION
Failure to Reimburse Pursuant to Labor Code § 2698 et seq.
Representative Action
(By Plaintiff against Defendants and DOES 1 through 10)

55. Plaintiff hereby incorporates by reference paragraphs 1 through 54 as though fully set forth herein.

56. Defendants failed to reimburse their employees for all necessary business expenditures incurred in direct consequence of the discharge of their duties in violation of, among other statutes, Labor Code section 2802. These expenditures are the result of, *inter alia*, Defendants' standard policies which require its employees to incur mileage, purchase work supplies, and to use their own cell phones for work-related purposes, without reimbursement.

57. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be proven at trial.

58. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3, and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these penalties pursuant to Labor Code section 2699, as more specifically set forth in the below

1 Prayer For Relief.

2 59. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
3 pursuant to Labor Code sections 2699(a) for each of these employees.

4 60. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
5 section 2699(g)(1).

6 **SIXTH CAUSE OF ACTION**
7 **Failure to Pay Wages Upon Separation Pursuant to Labor Code § 2698 et seq.**
8 **Representative Action**
9 **(By Plaintiff against Defendants and DOES 1 through 10)**

10 61. Plaintiff hereby incorporates by reference paragraphs 1 through 60 as though fully set forth
11 herein.

12 62. Defendants failed to provide Plaintiff and other aggrieved employees with all wages earned and
13 unpaid at termination in violation of, among other statutes, Labor Code sections 201 through
14 203. These violations resulted from, among other unlawful actions, Defendants' willful failure
15 to provide accurate and complete compensation to aggrieved employees under Labor Code
16 sections 226.7, 510, 512, 1197, and 2802, as set forth above.

17 63. As a direct result of Defendants' failure to comply with the foregoing provisions of the Labor
18 Code, Plaintiff and all other aggrieved employees have been damaged in an amount to be
19 proven at trial.

20 64. As California Labor Code Section 2699 provides for civil penalties recoverable by Plaintiff on
21 behalf of herself and all other aggrieved employees by and through Labor Code section 2699.3,
22 and as Plaintiff has complied with all pre-filing requirements, Plaintiff may recover these
23 penalties pursuant to Labor Code section 2699, as more specifically set forth in the below
24 Prayer For Relief.

25 65. Plaintiff seeks an award of statutory civil penalties for each underpaid employee of Defendants
26 pursuant to Labor Code sections 2699(a) for each of these employees.

27 66. Plaintiff also seeks an award of reasonable attorneys' fees and costs pursuant to Labor Code
28 section 2699(g)(1), and interest, pursuant to Labor Code section 218.6.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of all aggrieved employees, prays for judgment as follows:

1. For an award of attorneys' fees and costs of suit herein pursuant to Labor Code section 2699(g)(1);
2. For an award of statutory civil penalties pursuant to Labor Code section 2699(f)(2); and
3. For such other relief as the Court deems just and proper.

Dated: June 6, 2023

SULLIVAN & YAECKEL LAW GROUP, APC



Eric K. Yaeckel
Ryan T. Kuhn
Katherine D. Kitlowski
Attorneys for Plaintiff AMANDA ROGERS, in a
Representative capacity only, and on behalf of other
members of the general public similarly situated

Exhibit 1

SULLIVAN & YAECKEL
LAW GROUP

A PROFESSIONAL CORPORATION

2330 THIRD AVENUE
SAN DIEGO, CALIFORNIA 92101

PHONE 619-702-6760
FACSIMILE 619-702-6761

March 30, 2023

Labor and Workforce Development Agency
Attn. PAGA Administrator

Submitted Via Online Filing

Re: Amanda Rogers; and Gabriella Mulvey v. Pacifica Companies LLC; Pacifica Hosts, Inc.; Oasis Outsourcing, LLC; and Prospect Hospitality LP
Our File No.: 7339

Dear Administrator:

Please allow this correspondence to serve as "written notice," as required by California Labor Code section 2699.3(a)(1), of the specific provisions of the California Labor Code believed to have been violated by Pacifica Companies LLC; Pacifica Hosts, Inc.; Oasis Outsourcing, LLC; and Prospect Hospitality, (hereinafter collectively referred to as "La Valencia"), in the above referenced matter. This "written notice" is filed on behalf of Ms. Rogers and Ms. Mulvey, and all current and former non-exempt employees employed by La Valencia. Thank you for your assistance and instruction on this issue.

The specific provisions alleged to have been violated by La Valencia are as follows:

CALIFORNIA LABOR CODE SECTIONS 201-203, 226, 226(a), 226.7, 510, 512, 1194, 1197.1, 1198.5 and 2802, as well as IWC Wage Order 5, and any other applicable wage orders, codified as Title 8, California Code of Regulations, section 11050 *et seq.*

Facts and theories supporting the allegations: Ms. Rogers was employed as a non-exempt employee for La Valencia from approximately April 13, 2021, through February 2, 2023. Ms. Mulvey was employed as a non-exempt employee for La Valencia from approximately May 9, 2021, through February 2023.

///

Throughout the term of Ms. Rogers and Ms. Mulvey's employment, La Valencia required Ms. Rogers and Ms. Mulvey and all other non-exempt employees to experience actions illegal under the California Labor Code, including the following:

Minimum Wage and Overtime Violations

- La Valencia failed to provide all compensation, including minimum wage and overtime compensation, as well as compensation for work performed inside of Meal and Rest Periods, to its employees in violation of, *inter alia*, Labor Code sections 1194, 510, IWC Wage Order 5, and any other applicable wage orders. This illegal action is due, in part, to La Valencia's policies of (1) failing to properly retain accurate Time Records, in violation of California law, and (2) failing to provide compensation (including both minimum and overtime compensation) for all time worked by the employees, or in control of the employer. For instance, La Valencia would instruct Ms. Rogers and Ms. Mulvey to report scheduled (as opposed to *actual*) work hours, resulting in a loss of compensation. Additionally, La Valencia would often require Ms. Rogers and Ms. Mulvey to work extended hours (beyond scheduled hours), without compensation. Further, La Valencia would regularly contact Ms. Rogers and Ms. Mulvey outside of normal work hours (*i.e.*, "after hours" or during lunch) without compensation.
- Additionally, among other issues, La Valencia has notice of Ms. Rogers, Ms. Mulvey, and others, working outside of their scheduled and/or reported hours, as well as *within* Meal and Rest Periods, but fails to provide any compensation for this work-time. Ms. Rogers and Ms. Mulvey will testify that they were frequently scheduled to be "On Call" outside of when their work shifts ended, but were never compensated for this time. Further, La Valencia failed to properly calculate and pay overtime at the actual overtime rate of pay, as La Valencia ignores certain compensation when calculating the Regular Rate of Pay.

Failure to Provide Compliant Meal Periods

- La Valencia failed to provide compliant Meal Periods or requisite Meal Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 5, or any other applicable wage orders. For example, La Valencia does not possess a legal Meal Period policy and makes no attempt to ensure that its employees are either timely or wholly provided Meal Periods. The employees would often either miss a Meal Period entirely, or be provided a short or untimely Meal Period. Whether or not an employee was provided a Meal Period was often contingent upon the how busy the employees were on a given day. As a *first* example, La Valencia Time Records (produced and verified by La Valencia) show that on November 22, 2021, Ms. Rogers started a shift at 9:08 and then ended this shift at 15:13. On this date, Ms. Rogers **worked a shift lasting 6 hours and 5 minutes** without receiving a Meal Period. (Please see **Exhibit A**). Further, the La

Valencia Time Records indicate **no** California Meal Period Penalty was paid for this date. As a **second** example, La Valencia Time Records (produced and verified by La Valencia) show that on December 11, 2021, Ms. Mulvey started a shift at 9:53 and then ended this shift at 16:00. On this date, Ms. Rogers **worked a shift lasting 6 hours and 7 minutes** without receiving a Meal Period. (Please see **Exhibit B**). Further, the La Valencia Time Records indicate **no** California Meal Period Penalty was paid for this date.

- La Valencia would pressure its employees to either skip, or cut short, a Meal Period as employees were expected to respond to supervisors and/or guests at all times. La Valencia has never provided a compliant Meal Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions when employees **were** paid Meal Period penalties (*i.e.* California Meal Period Premiums), such payments do not “cure” the stated Labor Code violation under section 226.7. The California Supreme Court held that “An employer’s failure to provide an additional hour of pay does not form part of a section 226.7 violation, and an employer’s provision of an additional hour of pay does not excuse a section 226.7 violation. The failure to provide required meal and rest breaks is what triggers a violation of section 226.7.” (*Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1256, *italics added.*). Even more recently, a 2020 California Supreme Court ruling stated that, “The remedy for a Labor Code violation, through settlement or other means, is distinct from the fact of the violation itself. For example, employers can pay an additional hour of wages as a remedy for failing to provide meal and rest breaks. (§ 226.7, subd. (c).) But we have held that payment of this statutory remedy ‘does not excuse a section 226.7 violation.’” *Kim v. Reins International California, Inc.*, (2020) 9 Cal.5th 73. To be clear, payment of a Meal Period penalty to employees does not rectify the violation, it is in fact an admission of a Labor Code violation. Finally, La Valencia failed to pay Meal Period Premiums at the proper rate, as La Valencia fails to either (1) pay a full hours worth of pay, or (2) properly calculate the regular rate of pay for purposes of determining the premium rate owed. *Ferra v. Loews Hollywood Hotel, LLC*, S259172 (Slip Op. at p.1).

- La Valencia required its employees to constantly monitor their cell phones and be “on-call” at all times, specifically during Meal Periods. On occasion, La Valencia would interrupt, or cut short, its employees’ Meal Periods and require them to return to work.

- La Valencia illegally retained control over its employees during Meal Periods. For example, La Valencia required its employees to “remain on the premises,” and to remain “On Call” (*i.e.* monitor their phones) at all times, including during Meal Periods.

Failure to Provide Compliant Rest Periods

- La Valencia failed to provide compliant Rest Periods or requisite Rest Period penalty payments, in violation of, *inter alia*, Labor Code sections 226.7, 512, and IWC Wage Order 5, and any other applicable wage orders. For example, La Valencia does not possess a legal Rest Period policy, as its Rest Period policy lacks required language under California law. La Valencia makes no attempt to ensure that its employees are either timely or wholly provided Rest Periods. The employees would often either miss a Rest Period entirely, be provided a short or untimely Rest Period, or be provided only one Rest Period, even when they were working in excess of 6.5 hours a day. La Valencia would pressure its employees to either skip, or cut short, a Rest Period as employees were expected to respond to guests at all times. La Valencia has never provided a compliant Rest Period penalty payment to any employee as to the above referenced issues. Finally, on the rare occasions in which La Valencia would provide a Rest Period penalty, it would pay said penalty at an improper (and *lesser*) rate, due to the failure to properly calculate the Regular Rate of Pay.
- La Valencia required its employees to constantly monitor their cell phones and be “on-call” at all times, specifically during Rest Periods. On occasion, La Valencia would interrupt, or cut short, its employees’ Rest Periods and require them to return to work. Ms. Rogers and Ms. Mulvey will testify they were required to respond to customers and business related matters during their Rest Periods.
- Finally, La Valencia illegally retained control over its employees during Rest Periods. For example, La Valencia required its employees to “remain on the premises,” and to remain “On Call” (*i.e.* monitor their telephones) at all times, including during Rest Periods.

Wage Statement Violations

- La Valencia violated Labor Code section 226(a)(2) by failing to furnish an accurate showing of all hours worked at each hourly rate by the employee. Ms. Rogers, Ms. Mulvey, and other employees were not compensated for all hours worked (due in part to La Valencia’s requirement that employees list only *scheduled* work-times, not actual work-times.)
- La Valencia violated Labor Code section 226(a)(5) by failing to furnish an accurate showing of the net wages earned by its employees. For example, La Valencia (a) would not provide compensation for all hours and minutes worked, (b) would use an improper (and lesser) Overtime Rate of Pay, and (c) would fail to pay Meal and/or Rest Period penalties when due. Further, on the rare occasions in which La Valencia would provide a Meal or Rest Period penalty, it would pay said penalty at an

improper (and lesser) rate, due to the failure to properly calculate the Regular Rate of Pay.

- La Valencia violated Labor Code section 226(a)(9) by failing to furnish an accurate showing of all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Ms. Rogers, Ms. Mulvey, and the other employees were not compensated for all hours worked (due in part to La Valencia requiring employees to list only *scheduled* work-times, not actual work-times to include “on-call” hours). La Valencia does not explain how its system describes “time worked” on the “Earnings Statement” itself. Additionally, La Valencia does not use “minutes,” to describe the amount of time worked, on the “Earnings Statement.” As an example, for the pay period ending November 30, 2022, La Valencia states that it paid Ms. Rogers for “3.69” total hours of Overtime Pay. (Please see **Exhibit C**). However, Ms. Rogers cannot “readily ascertain” what 3.69 means without “reference to other documents or information.” Additionally, La Valencia does not use “minutes,” to describe the amount of time worked, on the “Earnings Statement.” As an example, .69 is not an accurate representation of minutes worked, but an altered representation of those minutes. (i.e., 25 minutes of work could be represented as .25, and 50 minutes of work could be represented as .50, however .69 minutes of work cannot be represented as .69 as there are not 69 minutes within one hour.) This is because La Valencia is apparently using a time-calculating system other than “minutes,” but without explanation to the employees within the wage statement. As minutes are measured on a scale of 1 through 60, it is not apparent what these figures are meant to represent. Without an explanation for how these figures were arrived at, employees cannot “readily ascertain” their total hours worked. Therefore, La Valencia failed to provide an accurate showing of the “total hours worked” by its employees pursuant to section 226(a)(2), due to all the aforesaid reasons.

Failure to Provide Compliant Expense Reimbursement Payments

- La Valencia failed to provide compliant expense reimbursement payments in violation of, *inter alia*, Labor Code section 2802, by failing to provide payments for expenses incurred by Ms. Rogers, Ms. Mulvey, and other non-exempt employees, including expenses for cell-phone costs, necessary work supplies, and mileage.

Willful Failure to Provide All Compensation to Ex-Employees

- La Valencia failed to provide all compensation upon termination of employment in violation of Labor Code sections 201-203, due, in part, to the fact that La Valencia failed to provide proper compensation for all hours worked, and failed to pay full Meal or Rest Period penalties, as discussed above.

To confirm, La Valencia is a "person" as defined within California Labor Code section 18.

Again, thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Very Truly Yours,



Eric K. Yaeckel, Esq.

Via Certified U.S. Mail

PARACORP INCORPORATED

Agent for Service of Process for
PACIFICA COMPANIES LLC
2804 Gateway Oaks Dr., #100
Sacramento, CA 95833

PARACORP INCORPORATED

Agent for Service of Process for
PACIFICA HOSTS, INC
2804 Gateway Oaks Dr., #100
Sacramento, CA 95833

PARACORP INCORPORATED

Agent for Service of Process for
PROSPECT HOSPITALITY LP
2804 Gateway Oaks Dr., #100
Sacramento, CA 95833

C T CORPORATION SYSTEM

Agent for Service of Process for
OASIS OUTSOURCING, LLC
330 N Brand Blvd., Suite 700
Glendale, CA 91203

Exhibit A

Total hours clocked for dates 11/8 to 11/14: **28.76**Average Hourly Pay Rate: **\$14.00**

Mon 11/15				Charge Tips	\$1,391.55	26	
				Service Charges	\$319.20	26	
	08:44	12:50	4.10		\$14.00/hr	26	
	13:20	15:08	1.80		\$14.00/hr	26	
Tue 11/16	14:57	20:49	5.87		\$14.00/hr	26	
Wed 11/17	-	-	-	-	-	-	-
Thu 11/18	09:00	12:00	3.00		\$14.00/hr	26	
	12:30	15:10	2.67		\$14.00/hr	26	
Fri 11/19	-	-	-	-	-	-	-
Sat 11/20	09:10	10:57	1.78		\$14.00/hr	26	
Sun 11/21	09:27	15:07	5.67		\$14.00/hr	26	

Total hours clocked for dates 11/15 to 11/21: **24.89**Average Hourly Pay Rate: **\$14.00**

Mon 11/22	09:08	15:13	6.08	-	\$14.00/hr	26	
Tue 11/23	-	-	-	-	-	-	-
Wed 11/24	-	-	-	-	-	-	-

Thursday, November 25, 2021: Thanksgiving

Thu 11/25	11:03	14:30	3.45	Holiday Worked	\$21.00/hr	26	
Fri 11/26	-	-	-	-	-	-	-
Sat 11/27	09:05	10:53	1.80		\$14.00/hr	26	
	11:40	14:15	2.58		\$14.00/hr	26	
Sun 11/28	08:55	14:28	5.55		\$14.00/hr	26	

Total hours clocked for dates 11/22 to 11/28: **19.46**Average Hourly Pay Rate: **\$15.24**

Mon 11/29	08:41	11:47	3.10		\$14.00/hr	26	
	12:19	15:01	2.70		\$14.00/hr	26	
Tue 11/30				Charge Tips	\$679.01	26	
				Service Charges	\$421.30	26	
	10:02	15:15	5.22		\$14.00/hr	26	
Wed 12/1	-	-	-	-	-	-	-
Thu 12/2	15:57	22:00	6.05		\$16.30/hr	26	
Fri 12/3	-	-	-	-	-	-	-
Sat 12/4			1.00	Meal Break Penalty Hours	\$16.30/hr	26	
	16:02	22:30	6.47		\$16.30/hr	26	
Sun 12/5	09:18	11:58	2.67		\$16.30/hr	26	
	12:30	15:44	3.23		\$16.30/hr	26	

Total hours clocked for dates 11/29 to 12/5: **29.44**Average Hourly Pay Rate: **\$15.44**

Mon 12/6	15:33	21:30	5.95		\$16.30/hr	26	
Tue 12/7	15:33	21:38	6.08		\$16.30/hr	26	
Wed 12/8	-	-	-	-	-	-	-
Thu 12/9	-	-	-	-	-	-	-

Exhibit B

Tue 11/16	-	-	-	-	-	-	-	-
Wed 11/17	-	-	-	-	-	-	-	-
Thu 11/18	-	-	-	-	-	-	-	-
Fri 11/19	-	-	-	-	-	-	-	-
Sat 11/20	-	09:58	11:54	1.93	-	\$14.50/hr	62	
	-	12:39	15:39	3.00	-	\$14.50/hr	62	
Sun 11/21	-	09:56	15:30	5.57	-	\$14.50/hr	62	

Total hours clocked for dates 11/15 to 11/21: **10.50**Average Hourly Pay Rate: **\$14.50**

Mon 11/22	-	-	-	-	-	-	-	-
Tue 11/23	-	15:42	20:57	5.25	-	\$14.50/hr	62	
Wed 11/24	-	-	-	-	-	-	-	-

Thursday, November 25, 2021: Thanksgiving

Thu 11/25	-	08:04	11:00	2.93	Holiday Worked	\$21.75/hr	62	
	-	11:30	14:43	3.22	Holiday Worked	\$21.75/hr	62	
Fri 11/26	-	-	-	-	-	-	-	-
Sat 11/27	-	-	-	-	-	-	-	-
Sun 11/28	-	08:16	12:31	4.25	-	\$14.50/hr	62	

Total hours clocked for dates 11/22 to 11/28: **15.65**Average Hourly Pay Rate: **\$17.35**

Mon 11/29	-	-	-	-	-	-	-	-
Tue 11/30	-	-	-	-	Charge Tips	\$278.11	62	
Wed 12/1	-	-	-	-	-	-	-	-
Thu 12/2	-	-	-	-	-	-	-	-
Fri 12/3	-	-	-	-	-	-	-	-
Sat 12/4	-	10:05	16:00	5.92	-	\$16.75/hr	62	
Sun 12/5	-	09:49	15:48	5.98	-	\$16.75/hr	62	

Total hours clocked for dates 11/29 to 12/5: **11.90**Average Hourly Pay Rate: **\$16.75**

Mon 12/6	-	-	-	-	-	-	-	-
Tue 12/7	-	-	-	-	-	-	-	-
Wed 12/8	-	-	-	-	-	-	-	-
Thu 12/9	-	-	-	-	-	-	-	-
Fri 12/10	-	-	-	-	-	-	-	-
Sat 12/11	-	09:53	16:00	6.12	-	\$16.75/hr	62	
Sun 12/12	-	09:58	15:25	5.45	-	\$16.75/hr	62	

Total hours clocked for dates 12/6 to 12/12: **11.57**Average Hourly Pay Rate: **\$16.75**

Mon 12/13	-	-	-	-	-	-	-	-
Tue 12/14	-	-	-	-	-	-	-	-
Wed 12/15	-	-	-	-	Charge Tips	\$109.00	62	
Thu 12/16	-	-	-	-	-	-	-	-
Fri 12/17	-	-	-	-	-	-	-	-
Sat 12/18	-	09:56	10:40	0.73	-	\$16.75/hr	62	
	-	11:11	15:57	4.77	-	\$16.75/hr	62	

Exhibit C

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Oasis

A PAYCHEX COMPANY

PAY
 Your net pay has been directly deposited into the bank account shown above.
 To the Order Of: AMANDA M. SOARES
 1910 RIVINGTON BLVD
 SAN DIEGO, CA 92108

Oasis

AMOUNT

10/01/02

10/01/02

10/01/02

10/01/02

10/01/02

10/01/02

10/01/02

10/01/02

Employee Name
 Amanda M. Soares
 Social Security Number
 123-45-6789
 Date of Birth
 01/01/80
 Current Address
 1910 RIVINGTON BLVD
 SAN DIEGO, CA 92108

Current Earnings Detail
 Period Start: 10/01/02
 Period End: 10/31/02
 Check No: 56009992

Deductions - Taxes
 Federal Income Tax: 100.00
 Social Security Tax: 100.00
 Medicare Tax: 25.00
 State Disability: 10.00
 Total: 235.00

Oasis

A PAYCHEX COMPANY

Charge Description	Rate	Hours	Amount
REGULAR	15.00	40.00	600.00
OVERTIME	22.50	8.00	180.00
RETIREMENT PLAN	4.00	40.00	160.00
WEDNESDAY	15.00	40.00	600.00
THURSDAY	15.00	40.00	600.00
FRIDAY	15.00	40.00	600.00
SATURDAY	15.00	40.00	600.00
SUNDAY	15.00	40.00	600.00
TOTAL			3380.00

Charge Description	Rate	Hours	Amount
REGULAR	15.00	40.00	600.00
OVERTIME	22.50	8.00	180.00
RETIREMENT PLAN	4.00	40.00	160.00
WEDNESDAY	15.00	40.00	600.00
THURSDAY	15.00	40.00	600.00
FRIDAY	15.00	40.00	600.00
SATURDAY	15.00	40.00	600.00
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FRIDAY	15.00	40.00	600.00
SATURDAY	15.00	40.00	600.00
SUNDAY	15.00	40.00	600.00
TOTAL			3380.00