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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

KADIE FREEMAN, FRANCISCO
GARCIA and MONICA BERBERY, and
on behalf of the State of California, as a
private attorney generals,

Plaintiffs,

vs.

BON APPETIT MANAGEMENT CO., a
California Corporation; COMPASS
GROUP USA, INC., a Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: **23-CIV-01497**

**DECLARATION OF SERGIO J. PUCHE IN
SUPPORT OF MOTION TO APPROVE
PAGA SETTLEMENT**

Hearing Date: April 10, 2025

Hearing Time: 9:00 a.m.

Judge: Hon. Nina Shapirshteyn

Dept.: 7

Action Filed: September 15, 2023

Trial Date: Not Set

1 I, Sergio J. Puche, declare as follows:

2 1. I am an attorney at the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP
3 (“BNBD”), attorneys for Plaintiffs Kadie Freeman, Francisco Garcia, and Monica Barbery
4 (“Plaintiffs”). As such, I am fully familiar with the facts, pleadings and history of this matter. I am
5 submitting this declaration in support of the Plaintiffs’ Motion to Approve PAGA Settlement in this
6 matter. The following facts are within my own personal knowledge, and if called as a witness, I could
7 and would testify competently to the matters stated herein.

8 2. A true and correct copy of the fully executed PAGA Settlement Agreement
9 (“Agreement”) with Defendant Bon Appetit Management Co., (“Defendant”) is attached as Exhibit
10 #1. On June 12, 2024, the Parties engaged in a mediation session before mediator Lisa Klerman,
11 thereafter, the Parties engaged in a second, half day Mediation Session on July 26, 2024. Through
12 arms-length negotiations with the assistance of the mediator, the Parties reached an agreement to settle
13 the PAGA claims in this Action which led to the signing of a Memorandum of Understanding.

14 3. The Litigation –

15 (a) PAGA Counsel mailed the necessary correspondence to the California Labor and
16 Workforce Development Agency (“LWDA”) on March 29, 2023 on behalf of Plaintiff Kadie Freeman;
17 on May 22, 2023, on behalf of Plaintiff Francisco Garcia; and on February 7, 2024 on behalf of
18 Plaintiff Monica Barbery, all requesting authorization from the LWDA to seek civil penalties as
19 provided by the Private Attorney General Act of 2004 (“PAGA”) for the wage and hour violations
20 alleged in the PAGA Notice. A true and correct copy of these PAGA Notices are attached hereto as
21 Exhibit #5(A-C). The 65-day notice period for the LWDA to notify of its intent to investigate has
22 expired for all Plaintiffs. On April 4, 2023, Plaintiff Kadie Freeman filed a Representative Action
23 Complaint in this Court against Defendant Bon Appetit Management Co alleging a single cause of
24 action for recovery of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*]. At the
25 time of filing, Plaintiff Freeman was represented by Mayall Hurley, P.C. (“Mayall Hurley”). On
26 September 13, 2023, Plaintiff Francisco Garcia filed a Representative Action Complaint in this Court
27 against Defendant Bon Appetit Management Co alleging a single cause of action for recovery of civil
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1 penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*]. On December 9, 2024, Plaintiffs
2 Kadie Freeman, Francisco Garcia and Monica Barbery filed a Second Amended Complaint in this
3 Court against Defendant Bon Appetit Management Co alleging a single cause of action for recovery
4 of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*].

5 Plaintiff and Defendant agreed to private mediation with Lisa Klerman, Esq. Prior to the
6 mediation, the Parties conducted significant investigation and discovery of the facts and law.
7 Defendant produced documents relating to its policies, practices, and procedures regarding paying
8 non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and
9 operations policies, and more. Plaintiff was provided with sufficient records and data to determine the
10 number of Aggrieved Employees and the number of pay periods in the PAGA Period. The Parties
11 agree that the above-described investigation and evaluation, as well as the information exchanged
12 during the settlement negotiations, are more than sufficient to assess the merits of the Parties' positions
13 and to compromise the issues on a fair and equitable basis.

14 (b) Plaintiffs' theory of PAGA liability as argued at mediation alleged that Defendant is
15 liable for miscalculating overtime and sick pay as a result of not including certain remunerations into
16 the regular rate. For example, the following additional remunerations were not fully incorporated into
17 the regular rate for the purpose of paying the correct overtime: as Housing Allowance (13,141
18 payments, \$1,775,938 total), Transportation Allowance (13,168 payments, \$889,115 total),
19 Commission (143 payments, \$97,148 total), Misc. Bonus (10 payments, \$7,615 total), Referral Bonus
20 (15 payments, \$5,750 total), Shift Differential (1,046 payments, \$98,403 total). during each pay period
21 of her employment. Those amounts, however, were not properly factored into the "regular rate of pay"
22 provided for overtime purposes. Instead, daily overtime was always paid at 1 ½ times Freeman's base
23 hourly rate of \$23.70 (\$35.55). Overtime was net underpaid from other remunerations. 23.5% of
24 employees and 7.1% of pay periods had unpaid overtime due to weighted average or additional
25 remunerations. PAGA penalties for L.C. 510 assume 7.1% of pay periods have an underpayment.
26 During employment, each of the Plaintiffs were required to use his/her personal cell phone for work
27 related purposes. Specifically, Plaintiff Barbery was expected to use her phone to access recipes
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1 required to perform her job and also to make calculations required for recipes. In addition, all three
2 Plaintiffs were contacted by managers and expected to be available on their personal cell phones
3 during work hours for text communications and other contact. There are also unpaid meal premiums
4 and sick pay due from weighted average or additional remunerations. 22.1% of employees and 5.4%
5 of pay periods had unpaid sick pay. 3% of employees and 1.1% of pay periods had unpaid meal
6 premiums. Large sick pay damages are from pay periods with minimal work hours and many sick
7 hours. PAGA penalties for unpaid sick pay and meal premiums assume 5.4% or 1.1% of pay periods
8 have unpaid sick or meal premiums, respectively. Defendant denies these allegations made by
9 Plaintiff. Defendant disputes liability and disputes that any allegedly aggrieved employees were likely
10 to receive any recovery.

11 (c) On June 12, 2024, the Parties engaged in a mediation session before mediator Lisa
12 Klerman, a respected and experienced mediator knowledgeable of both the wage and hour laws and
13 representative claims at issue in this action, thereafter, the Parties engaged in a second, half day
14 Mediation Session on July 26, 2024. Through arms-length negotiations with the assistance of the
15 mediator, the Parties reached an agreement to settle the PAGA claims in this action which led to the
16 signing of a Memorandum of Understanding memorializing the settlement. The settlement was
17 negotiated in light of all known facts and circumstances and the uncertainty associated with litigation
18 – including the risk of Plaintiff not being able to maintain representative claims, the difficulty of
19 proving Plaintiff’s claims in a manageable trial, the merits of Defendant’s potential defenses and
20 expert findings, and the significant delay and potential appellate issues inherent to litigation – and was
21 reached after extensive arm’s length negotiations, with the assistance of mediator, Lisa Klerman, Esq.

22 4. The claim before this Court is solely the representative claim under PAGA on behalf
23 of the State of California for civil penalties pursuant to the PAGA. The parties have agreed to settle
24 this PAGA claim in its entirety after investigation and an arm’s length mediation session. The PAGA
25 settlement is subject to Court approval consistent with Labor Code §2699(1)(2). (Agreement at ¶ 10.7).
26 The Agreement negotiated by the Parties provides for a “Gross PAGA Settlement Amount” payment
27 in the amount of \$2,400,000 to resolve the Released PAGA Claims (hereinafter referred to as the
28

1 “PAGA Settlement”). From this PAGA Settlement of \$2,400,000, there is a deduction of attorneys’
2 fees (“PAGA Counsel Fees Payment”) in the amount of \$800,000 (which is one-third of the PAGA
3 Settlement), reimbursement of incurred costs (“PAGA Counsel Litigation Expenses Payment”) in an
4 amount not to exceed \$35,000, Administration Costs not to exceed \$27,500, and Service Awards in the
5 amount of \$15,000 per Plaintiff, for a total of \$45,000. (Agreement at ¶¶ 3.2.1-3.2.4).¹ After these
6 deductions, the amount remaining is the “PAGA Payment”, which is estimated to be no less than
7 \$1,492,500. Of the PAGA Payment amount which is no less than \$1,492,500, seventy-five percent
8 (75%) (no less than \$1,119,375) will be paid to the LWDA, and the remaining twenty-five percent
9 (25%) (no less than \$373,375) will be paid to the Aggrieved Employees (Agreement at ¶ 3.2.3). This
10 75/25 allocation is required by the earlier Labor Code §2699 as explained by *ZB, N.A. v. Superior*
11 *Court*, 8 Cal.5th 175 (2019) because the Action was filed before June 2024, which is the operative date
12 of the amended PAGA statute. “Aggrieved Employee” means all individuals who are or previously
13 were employed by Defendant Bon Appétit Management Co in California and classified as a nonexempt
14 at any time during the PAGA Period, but excluding those who performed work at Chase Center and/or
15 Oracle Park. The PAGA Period is the period from August 28, 2022, through August 28, 2024.
16 (Agreement at ¶¶ 1.4 and 1.23.) The Administrator will calculate each Individual PAGA Payment by
17 (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Payment by the total number
18 of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)
19 multiplying the result by each Aggrieved Employee’s PAGA Period Pay Periods. (Agreement at ¶
20 3.2.3.) The PAGA Period is the time period from August 28, 2022 through August 28, 2024.
21 (Agreement at ¶ 1.22). For mediation, Defendant represented that there are approximately 12,050
22 Aggrieved Employees who collectively worked approximately 400,000 pay periods during the PAGA
23 Period. (Agreement at ¶ 4.1). Upon full funding of the Gross PAGA Settlement Amount, the State of
24 California, and all Aggrieved Employees, on behalf of themselves and their respective former and

25 _____
26 ¹ If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses
27 Payment less than the amounts requested, the Administrator will allocate the remainder of these
28 amounts to the PAGA Payment. (Agreement at ¶ 3.2.1). To the extent the Administration Expenses
are less, or the Court approves payment less than \$27,500, the Administrator will allocate the
remainder of this amount to the PAGA Payment (*Id.* at ¶ 3.2.2).

1 present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed
2 to release the Released Parties from all “Released PAGA Claims”. (Agreement at ¶5.2). “Released
3 PAGA Claims” means all claims for PAGA Penalties that were alleged, or reasonably could have been
4 alleged, based on the facts stated in the Operative Complaint, and the PAGA Notices submitted by
5 Plaintiffs to the LWDA, which occurred during the PAGA Period, including claims under California
6 Labor Code Sections 201, 202, 203, 204, 210, 216, 218, 222, 225.5, 226, 226.3, 226.7, 227.3, 233, 234,
7 246, 246.5, 432, 510, 512, 516, 551, 552, 558, 558.1, 1174, 1182.12, 1193, 1193.6, 1194, 1194.2, 1197,
8 1197.1, 1198, 1198.5, 1199, 2802, 2804, and 2810.5. The Released PAGA Claims expressly excludes
9 all other claims, including Plaintiffs’ individual claims, claims for vested benefits, wrongful
10 termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability,
11 social security, workers’ compensation, and PAGA claims outside of the PAGA period. (*Id.*)

12 5. PAGA Counsel Fees Payment equal to one-third of the Gross PAGA Settlement
13 amount (\$800,000), and PAGA Counsel Litigation Expenses Payment in an amount not to exceed
14 \$35,000 will also be paid to PAGA Counsel as part of the settlement in accordance with California
15 Labor Code § 2699(g)(1), as set forth in the Agreement. Lastly, payment to the Administrator in an
16 amount not to exceed \$27,500 to perform the administrative duties to distribute the settlement money
17 shall also be paid.

18 6. As experienced counsel, we believe that the PAGA Settlement is fair and reasonable
19 and therefore should be approved in light of Defendant's potential defenses to the violations at issue,
20 the risks and costs of continued litigation. Here, the Gross PAGA Settlement Amount of \$2,400,000
21 constitutes \$6 per pay period. This PAGA Settlement amount compares favorably to the estimated
22 amount of PAGA penalties. With the assistance of an expert, Plaintiff calculated that the maximum
23 amount of statutory PAGA civil penalties was potentially \$40,000,000 without stacking based on
24 400,000 pay periods applicable to the Aggrieved Employees during the PAGA Period.² Importantly,

25 _____
26 ² Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The
27 valuation of \$40,000,000 is the civil penalty amount without stacking. If stacking is permitted, then
28 the valuation increases with each additional penalty added to each pay period. Plaintiffs, however, is
not aware of any PAGA award which permitted stacking and in the cases cited herein, only one penalty
per pay period was assessed. In addition, the recent amendment of PAGA casts further doubt on the

1 however, these calculations were performed at the maximum statutory rate for the penalties, when in
2 fact, it is likely that any penalties awarded would be at a lower rate. California Labor Code Section
3 2699(e)(1) permits a Court to award a lesser amount than the maximum civil penalty if based on the
4 facts and circumstances to do otherwise would result in an award that is "unjust, arbitrary and
5 oppressive or confiscatory." In *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court
6 of Appeal affirmed a judgment after trial which only provided for a PAGA penalty of \$5 per pay
7 period. Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiff's
8 calculation even where Plaintiff prevailed on the PAGA claim. If the amount of \$5 per pay period
9 from *Carrington v. Starbucks* is used, the potential recovery of civil penalties would be only
10 \$2,000,000, which is far less than this settlement provides.

11 7. Here, Plaintiffs would need to prove that each Aggrieved Employee suffered a violation
12 for each period the employee worked in relation to meal or rest period violations, failure to pay
13 minimum wages, failure to pay overtime and sick pay wages, failure to provide accurate itemized
14 wage statements, failure to reimburse employees for required expenses, and failure to pay wages when
15 due. Defendant maintains that Plaintiffs and the Aggrieved Employees were properly compensated,
16 and that it did not violate the Labor Code. Accordingly, Defendant disputes and denies Plaintiffs'
17 allegations and claims asserted in both the PAGA Notice and the Operative Complaint, which are
18 resolved by the Agreement. Defendant asserted additional defenses to the PAGA claim, not only as
19 to liability but also as to the amount of the penalties. Defendant could argue that no penalties prior to
20 the PAGA notification should be awarded because the violations were not intentional, and at least one
21 Court has so ruled. These defenses present a risk to the PAGA claims and the potential that some or
22 all of the PAGA penalties sought may not be awarded. Given Defendant's potential defenses to the
23 violations at issue, the risks and costs of continued litigation, Plaintiffs and their attorneys believe that
24 the PAGA Settlement is fair and reasonable. Defendant has similarly concluded that it is desirable that
25 the action is settled in the manner and upon the terms and conditions set forth in the Agreement in
26 order to avoid further expense, inconvenience and distraction of further legal proceedings, as well as
27 _____
28 availability of stacking penalties.

1 the uncertainty of litigation. Defendant has determined that it is desirable and beneficial to put to rest
2 the claims in this action and Defendant agrees that the PAGA Settlement is fair, reasonable, and
3 adequate. PAGA Counsel have significant experience litigating wage and hour claims including
4 claims for PAGA penalties, and the PAGA Settlement here is similar to or greater than similar
5 settlements that courts have approved. The PAGA Settlement, along with the other terms of the
6 proposed settlement, were negotiated by experienced counsel at arm's length with the assistance of a
7 private mediator, Lisa Klerman, Esq. As set forth in the accompanying proof of service, the LWDA
8 has been provided notice of this motion and the PAGA settlement. The decision of the LWDA to
9 accept the PAGA Settlement and not oppose the motion should be given considerable weight. This is
10 not a situation where the Court needs to be concerned about the rights of absent employees as in a
11 class settlement, as this PAGA-only settlement does not release the individual claims of absent
12 employees other than PAGA claims, and the LWDA is a sophisticated government entity that is more
13 than able to look out for its own rights.

14 8. PAGA Counsel seek approval of attorneys' fees from the PAGA settlement in the
15 amount of \$800,000 representing one-third of the \$2,400,000 Gross PAGA Settlement Amount. The
16 attorneys' fees will be paid 50% to Blumenthal Nordrehaug Bhowmik De Blouw LLP and 50% to
17 Mayal Hurley P.C. The payment of attorneys' fees and costs to PAGA Counsel under the Agreement
18 is supported by several factors. First, the requested fees are justified by the result achieved. PAGA
19 Counsel negotiated a recovery of \$2,400,000, and this result justifies the requested fees equal to one
20 third of this recovery. This percentage is within the standard contingent recovery percentage of one-
21 third, and this percentage is what was expressly approved by the Supreme Court in *Laffitte v. Robert*
22 *Half Int'l Inc.*, 1 Cal.5th 480, 504, (2016). Second, the fee award is justified by the work performed
23 and contributions to the case. The fee award represents PAGA Counsel's current combined lodestar
24 of \$359,761.85 with a reasonable multiplier of 2.2, with significant additional work to be performed
25 such that the multiplier will ultimately be even less. As detailed in the accompanying billing statement
26 from BNBD, true and correct copies of which are attached hereto as Exhibit #2, the current lodestar
27 for my firm in this court matter as of March 14, 2025 is \$191,350.27 for more than 236 hours of work
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1 prosecuting the claims being resolved by this Settlement. This time does not include time incurred
2 after the billing was finalized and the time spent managing the completion of the settlement, which I
3 estimate will add another \$20,000 in additional lodestar. Third, the consideration of the enhancement
4 factors would justify the enhancement of the lodestar. Courts multiply the lodestar by a factor to
5 account for the risk of non-payment, delay in payment, the quality of work, and the novelty and
6 difficulty of the issues involved. Here, where an enhancement would be warranted, but the fee award
7 is less than the lodestar, there can be no question of the reasonableness of the award.

8 9. The award of litigation expenses is based upon the actual expenses incurred by PAGA
9 Counsel, which currently are \$34,155.86 which is less than the \$35,000 allocation for costs in the
10 Agreement, so the difference of \$844.14 will be added to the PAGA Payment amount. The litigation
11 expenses incurred by BNBD total \$20,904.02 and were all reasonably necessary to the litigation. The
12 specific itemization of costs incurred by my firm are detailed in Exhibit #2 attached hereto.

13
14 Experience and Qualifications

15 10. Our firm has represented hundreds of thousands of employees in hundreds of legal
16 matters, including PAGA lawsuits and hundreds of employment class actions. Blumenthal Nordrehaug
17 Bhowmik De Blouw LLP's practice is devoted almost entirely to the prosecution of wage and hour
18 class action and PAGA action matters. The attorneys at Blumenthal Nordrehaug Bhowmik De Blouw
19 LLP have been appointed lead counsel in hundreds of contested motions for class certification
20 including many consolidated wage and hour matters.

21 (a) Blumenthal Nordrehaug Bhowmik De Blouw LLP was responsible for handling
22 the briefing and argument that resulted in the landmark ruling of *Sakkab v. Luxottica Retail N. Am.,*
23 *Inc.*, 803 F.3d 425 (9th Cir. 2015). There, Blumenthal Nordrehaug Bhowmik De Blouw LLP overcame
24 opposition by Littler Mendelson and amici Curiae briefs submitted by Mayer Brown LLP to persuade
25 the Ninth Circuit of the importance of the substantive rights of the State of California under the
26 California Private Attorney General Act of 2004 ("PAGA"). Blumenthal Nordrehaug Bhowmik De
27 Blouw LLP took the lead on this case where the ruling was the reaffirmation of the PAGA statute and
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1 the *Iskanian* rule. Blumenthal Nordrehaug Bhowmik De Blouw LLP also has recently engaged in
2 noted appellate work on the subject of class actions in the California Court of Appeals resulting in the
3 opinions handed down in *Securitas Sec. Services USA, Inc. v. Superior Court*, 234 Cal. App. 4th 1109,
4 184 Cal. Rptr. 3d 568 (2015) (class or representative action waiver in an employment-related
5 arbitration agreement was unenforceable); *Altman v. Solarcity Corp.*, No. D067582, 2016 Cal. App.
6 Unpub. LEXIS 3536 (Ct. App. May 13, 2016) (same). In 2015, Blumenthal Nordrehaug Bhowmik
7 De Blouw LLP received an award from the Daily Journal for Top Appellate Reversal, and Partner
8 Kyle Nordrehaug received an award from the Daily Journal as Top Labor & Employment Attorney
9 2016.

10 (b) Blumenthal Nordrehaug Bhowmik De Blouw LLP has litigated hundreds of
11 PAGA claims. In particular, in the last several years Blumenthal Nordrehaug Bhowmik De Blouw
12 LLP negotiated court-approved PAGA settlements with: (i) Mattress Firm in the amount of \$3,750,000
13 (*Miller v. Mattress Firm*, Santa Clara County Superior Court Case No. 17CV313148); (ii) CH
14 Robinson in the amount of \$630,000 (*Poublon v. C.H. Robinson*, U.S.D.C. Central District of
15 California Case No. 12-06654); (iii) Accentcare in the amount of \$500,000 (*Lanuza v. Accentcare*,
16 San Francisco Superior Court Case No. CGC-18-565521); (iv) Prime Healthcare in the amount of
17 \$700,000 (*Ortega v. Prime Healthcare Paradise Valley, LLC*, Superior Court of California for the
18 County of San Diego, Case No. 37-2014-00011240); (v) Planet Beauty in the amount of \$200,000
19 (*Sanchez v. Beena Beauty Holding, Inc.*, Superior Court of California for the County of Los Angeles,
20 Case No. BC566065); (vi) Holman Automotive Group in the amount of \$580,000 (*Gabriel v. KUNI*
21 *SDI, LLC, et al.*, Superior Court of California for the County of San Diego, Case No. 37-2017-
22 00025191); (vii) Aircraft Service International in the amount of \$1,100,000 (*Martin v. Aircraft Service*
23 *International, Inc., et al.*, Superior Court of California, County of San Francisco Case No. CGC-18-
24 566072); (viii) Easy Driving School in the amount of \$896,000 (*Thomas v. Easy Driving School*,
25 Superior Court for the County of San Diego, Case No. 37-2018-00047639); (ix) Café Rio in the
26 amount of \$835,000 (*Quincho v. Café Rio*, Superior Court for the County of San Bernardino, Case
27 No. CIVDS2011822); (x) Altamed in the amount of \$1,570,000 (*Meek v. Altamed Health Services*,
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1 Superior Court for the County of Los Angeles, Case No. 20STCV47464); (xi) Lululemon in the
2 amount of \$1,200,000 (*O'Donnell v. Lululemon USA, Inc.*, Superior Court for the County of Ventura,
3 Case No. 56-2020-00542441); (xii) Yourmechanic in the amount of \$1,285,000 (*Provost v.*
4 *Yourmechanic, Inc.*, Superior Court for the County of San Diego, Case No. 37-2017-00024056); (xiii)
5 Altamed in the amount of \$1,570,000 (*Meek v. Altamed Health Services*, Superior Court for the County
6 of Los Angeles, Case No. 20STCV47464); (ix) Oakhurst in the amount of \$380,000 (*Neff v. Oakhurst*
7 *Industries*, Superior Court for the County of Los Angeles, Case No. 21STCV21110); (x) and, Gurnick
8 Academy of Medical Arts in the amount of \$545,000 (*Serna v. Gurnick Academy of Medical Arts*,
9 Superior Court for the County of San Mateo, Case No. 22-CIV-01185); (xi) Lancaster Hospital in the
10 amount of \$815,000 (*Gonzalez v. Lancaster Hospital Corporation* (Los Angeles Superior Court Case
11 No. 22AVCV00254). Based upon our significant experience litigating claims for PAGA penalties,
12 the opinion of experience counsel is that this is an excellent settlement and the PAGA Payment here
13 is greater on a per pay period basis than similar settlements that my firm has previously negotiated,
14 and which courts have approved.

15 (c) Then Chief Judge Irma Gonzales in a consolidated class action representing
16 hundreds of armed forces officers held that Blumenthal Nordrehaug Bhowmik De Blouw LLP was
17 "qualified counsel with extensive experience in class action litigation." *McPhail v. First Command*
18 *Fin. Planning, Inc.*, 247 F.R.D. 598, 611 (S.D. Cal. 2007). Examples of other contested actions where
19 class certification was granted Blumenthal Nordrehaug Bhowmik De Blouw LLP was appointed lead
20 class counsel in wage and hour class actions in Federal Court include *Schulz v. Qualxserv, LLC*, 2012
21 U.S. Dist. LEXIS 58561 (S.D. Cal. 2012); *Dobrosky v. Arthur J. Gallagher Serv. Co., LLC*, No. EDCV
22 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); *Culley v. Lincare Inc.*,
23 No. 2:15-cv-00081-MCE-CMK, 2016 U.S. Dist. LEXIS 105704 (E.D. Cal. Aug. 10, 2016); *Nelson v.*
24 *Avon Prods.*, No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); *Orozco*
25 *v. Illinois Tool Works*, U.S.D.C. Case No. 14-cv-02113-MCE, 2016 U.S. Dist. LEXIS 158115 (E.D.
26 Cal. February 17, 2017); *Metrow v. Liberty Mutual*, U.S.D.C. Case No. EDCV 16-1133 JGB (C.D.
27 Cal. May 1, 2017). Some examples of heavily contested State Court wage and hour class actions
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1 where class certification was obtained and BNBD was appointed lead class counsel include *Vakili v.*
2 *Dignity Health, et al.*, San Francisco Superior Court, Case No. CGC-18-569456 (December 16, 2021);
3 *Armstrong v. Ruan Transport*, San Bernardino Superior Court, Case No. CIVDS1605897 (August 11,
4 2020); *Spears v. Health Net of California*, Sacramento County Superior Court, Case No. 34-2017-
5 00210560 (Oct. 8, 2019); *El Pollo Loco Wage and Hour Cases*, Orange County Superior Court, JCCP
6 Case No. 4957 (July 30, 3018); *Torrento v. Lucile Packard Children's Hospital*, Santa Clara County
7 Superior Court Case No. 2016-1-CV-291035 (July 17, 2018); *Salem v. Alliance*, San Bernadino
8 Superior Court, Case No. CIVRS1401129 (March 8, 2016); *Rivers v. Veolia*, Sonoma County Superior
9 Court Case No. SCV 255350 (March 9, 2016); *Mathies v. Union Bank*, San Francisco Superior Court
10 Case No. CGC-10-498077 (Sept. 11, 2013); *Jefferson v. Bottling Co, LLC*, Orange County Superior
11 Court Case No. 30-2009-00180102-CU-OE-CXC (Sept. 7, 2010); *Rangel v. Balboa Ambulance Co.*,
12 37-2008-00095700-CU-BT-CTL (Fe. 11, 2010); *Tan v. CSAA*, Orange County Superior Court, Case
13 No. 30-2008-00231219 (Nov. 23, 2009).

14 (d) Over the course of the litigation, a number of attorneys in the firm have worked
15 on this matter. Their credentials are reflected in the Blumenthal Nordrehaug Bhowmik De Blouw
16 LLP firm resume, a true and correct copy of which is attached hereto as Exhibit #3. Some of the major
17 cases our firm has undertaken are also set forth in Exhibit #3. The attorneys involved in this matter at
18 Blumenthal Nordrehaug Bhowmik De Blouw LLP have had extensive representative and class
19 litigation experience, much of it in the area of consumer class actions, employment class actions,
20 securities litigation, unfair business practices and other complex litigation. The attorneys at this firm
21 have extensive experience in cases involving labor code violations and overtime claims. Class
22 Counsel has litigated similar wage and hour cases against other employers on behalf of employees,
23 including cases against Sharp Healthcare, Cigna, Walmart, Legoland, See's Candies, Securitas, Okta,
24 El Pollo Loco, Automobile Association, Marriott, Total Renal, Solarcity, Penske, Universal Protection
25 Services, Panda Express, Redfin, Instacart, Verizon, Apple, Wells Fargo, Kaiser, Culinart, Space
26 Exploration, Time Warner, and California State Automobile Association. It is this level of experience
27 which enabled the firm to undertake the instant matter and to successfully combat the resources of the
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1 defendants and their capable and experienced counsel. On account of the concerted and dedicated
2 effort this case required in order to properly handle and prosecute, Class Counsel were precluded from
3 taking other cases, and in fact, had to turn away other potential fee generating cases.

4 12. The hourly rates for staff at Blumenthal Nordrehaug Bhowmik De Blouw LLP are as
5 follows: Partner Attorneys from \$850 to \$995, Associate Attorneys from \$450 to \$750, Paralegals
6 from \$250 to \$275. This firm's hourly rates are based upon the Laffey Matrix with the appropriate 2%
7 increase adjustment for Southern California. A true and correct copy of the current Laffey Matrix is
8 attached hereto as Exhibit #4. These hourly rates have been approved by Court's throughout
9 California, including the Courts in the Superior Court of California. In fact, on August 1, 2018, District
10 Judge Andre Birotte Jr. explicitly found that Class Counsel's "rates generally appear reasonable and
11 'in line with those prevailing in the [relevant] community'—the Central District of California".
12 Finally, the reasonableness of Class Counsel's hourly rates is further confirmed by comparing such
13 rates with the rates of comparable counsel practicing complex and class litigation as detailed in the
14 National Law Journal Billing Survey. See e.g. *Zest IP Holdings, LLC v. Implant Direct MFG., LLC*,
15 2014 U.S. Dist. LEXIS 167563 (S.D. Cal. 2014) (finding that "Mayer Brown's \$775 average billing
16 rate for partners" and "Mayer Brown's \$543 average associate billing rate" are reasonable rates when
17 compared within 21 other firms practicing in the Southern District of California.) This survey is useful
18 to show that Class Counsel's rates are in line with the comparable rates of the defense counsel that
19 opposes these types of class claims, such as Mayer Brown noted above who is defense counsel in cases
20 currently being prosecuted by Class Counsel. In another example from several years ago, Sheppard
21 Mullin Richter & Hampton, who is opposing counsel in many cases prosecuted by Class Counsel (one
22 of the most frequent opposing counsel), charged rates as high as \$875 for partners and \$535 for
23 associates. Similarly, Paul Hastings, another opposing counsel in these types of cases, in years past
24 historically charged between \$900 and \$750 for partners and \$755 and \$335 for associates. Thus, the
25 rates charged by this firm for comparable work are less than these examples and are therefore
26 undoubtedly reasonable.

1 13. LWDA - The PAGA Notices sent to the LWDA are attached hereto as Exhibit #5(A-
2 C). In addition, the LWDA is being served with this motion which includes the Settlement Agreement,
3 as verified in the proof of service.

4
5 14. Settlement Administration – Atticus Administration, LLC., (“Atticus”) was selected as
6 the Settlement Administrator based upon their estimate. We obtained estimates from Apex Class
7 Action Administration (“Apex”), Phoenix Class Action Administration Solutions (“Phoenix”) and
8 Atticus using the same criteria. The Atticus estimate provides for Administration Expenses in the
9 amount of \$27,500. The Phoenix estimate was \$31,500. The Apex estimate was \$29,990. As a result,
10 the lowest bid from Atticus was selected by the Parties. A Declaration from Atticus is submitted in
11 support of this motion which addresses their qualifications and their estimate as Exhibit #6.

12
13 15. Conflicts – Neither Plaintiffs nor my firm have any relationship with the Administrator,
14 nor any actual or potential conflicts of interest with Aggrieved Employees or the LWDA.

15
16 16. PAGA Penalties Valuation

17 (a) Plaintiffs’ theory of PAGA liability as argued at mediation alleged that Defendant is
18 liable for miscalculating overtime and sick pay as a result of not including certain remunerations into
19 the regular rate. For example, the following additional remunerations were not fully incorporated into
20 the regular rate for the purpose of paying the correct overtime: as Housing Allowance (13,141
21 payments, \$1,775,938 total), Transportation Allowance (13,168 payments, \$889,115 total),
22 Commission (143 payments, \$97,148 total), Misc. Bonus (10 payments, \$7,615 total), Referral Bonus
23 (15 payments, \$5,750 total), Shift Differential (1,046 payments, \$98,403 total). During each pay
24 period of her employment. Those amounts, however, were not properly factored into the “regular rate
25 of pay” provided for overtime purposes. Instead, daily overtime was always paid at 1 ½ times
26 Freeman’s base hourly rate of \$23.70 (\$35.55). Overtime was net underpaid from other remunerations.
27 23.5% of employees and 7.1% of pay periods had unpaid overtime due to weighted average or
28

1 additional remunerations. PAGA penalties for L.C. 510 assume 7.1% of pay periods have an
2 underpayment. During employment, each of the Plaintiffs were required to use his/her personal cell
3 phone for work related purposes. Specifically, Plaintiff Barbery was expected to use her phone to
4 access recipes required to perform her job and also to make calculations required for recipes. In
5 addition, all three Plaintiffs were contacted by managers and expected to be available on their personal
6 cell phones during work hours for text communications and other contact. There are also unpaid meal
7 premiums and sick pay due from weighted average or additional remunerations. 22.1% of employees
8 and 5.4% of pay periods had unpaid sick pay. 3% of employees and 1.1% of pay periods had unpaid
9 meal premiums. Large sick pay damages are from pay periods with minimal work hours and many
10 sick hours. PAGA penalties for unpaid sick pay and meal premiums assume 5.4% or 1.1% of pay
11 periods have unpaid sick or meal premiums, respectively.

12 (b) For mediation, Defendant represented that there are approximately 12,050 Aggrieved
13 Employees who collectively worked approximately 400,000 pay periods during the PAGA Period as
14 such there were 400,000 potential violations.

15 (c) With the assistance of an expert, Plaintiff calculated that the maximum amount of
16 statutory PAGA civil penalties was potentially \$40,000,000 without stacking based on 400,000 pay
17 periods applicable to the 12,050 Aggrieved Employees during the PAGA Period at a rate of \$100 per
18 pay period.³

19 (d) In *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court of Appeal
20 affirmed a judgment after trial which only provided for a PAGA penalty of \$5 per pay period.
21 Therefore, at trial, any PAGA penalties awarded could be significantly less than Plaintiff's calculation
22 even where Plaintiff prevailed on the PAGA claim. Plaintiff uses the guidance in *Carrington* of a
23 reasonable result at trial of \$5 per pay period, which means the potential recovery of civil penalties
24

25 ³ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct. The
26 valuation of \$40,000,000 is the civil penalty amount without stacking. If stacking is permitted, then
27 the valuation increases with each additional penalty added to each pay period. Plaintiff, however, is
28 not aware of any PAGA award which permitted stacking and in the cases cited herein, only one penalty
per pay period was assessed. In addition, the recent amendment of PAGA casts further doubt on the
availability of stacking penalties.

1 would be only \$2,000,000 at trial, which is far less than this settlement provides.

2 (e) Plaintiff believes that under the new standard announced by the California Supreme
3 Court, a finding that the alleged violations were intentional or knowing could be unlikely. The recent
4 decision that good faith belief of compliance by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*,
5 15 Cal. 5th 1056, 1065 (2024), could completely negate any argument that some or all of the violations
6 were intentional or knowing as those terms are used in the Labor Code.

7 (f) The violations predicated on the alleged miscalculation of the regular rate are based on
8 the recent decision in *Ferra v. Loews Hollywood Hotel*, 11 Cal. 5th 858 (2021) and the subsequent
9 decisions thereafter applying this decision to sick pay and meal premiums. Thus, Defendant could
10 argue that the violations are because of a change in law, and not any intentional or knowing violation
11 of the Labor Code. Defendant could also argue that they have since remedied the alleged violations
12 and that no violations are occurring now, which means that the deterrence effect of PAGA would be
13 unnecessary.

14 (g) To prevail at trial, Plaintiff would need to prove that each Aggrieved Employee
15 suffered a violation for each period the employee worked in relation to meal or rest period violations,
16 failure to pay minimum wages, failure to pay overtime and sick pay wages, failure to provide accurate
17 itemized wage statements, failure to reimburse employees for required expenses, and failure to pay
18 wages when due. Defendant maintains that Plaintiff and the Aggrieved Employees were properly
19 compensated, and that it did not violate the Labor Code. Accordingly, Defendant disputes and denies
20 Plaintiff's allegations and claims asserted in both the PAGA Notice and the Operative Complaint,
21 which are resolved by the Agreement. Defendant has maintained and offered information supporting
22 that it pays employees all wages, provides compliant meal and rest breaks, reimburses for all
23 reasonably incurred business expenses, and prohibits off-the-clock work. Defendant asserted
24 additional defenses to the PAGA claim, not only as to liability but also as to the amount of the
25 penalties. Defendant asserted that no penalties prior to the PAGA notification should be awarded
26 because the violations were not intentional. These defenses present a risk to the PAGA claims and the
27 potential that some or all of the PAGA penalties sought may not be awarded. Given Defendant's
28

1 potential defenses to the violations at issue, the risks and costs of continued litigation, Plaintiff and his
2 attorneys believe that the PAGA Settlement is fair and reasonable.

3
4 18. Service Award - Pursuant to the Agreement at paragraph 1.27, “Service Award”
5 means the service payments made to the Plaintiffs in order to compensate for initiating the Action,
6 performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses,
7 and for the general release of all claims by the Plaintiffs. Plaintiffs request from the Service Award of
8 \$15,000 to each Plaintiff, for a cumulative total of \$45,000, as recognition for Plaintiffs’ efforts in
9 securing this Settlement for the benefit of the Aggrieved Employees and the LWDA and in exchange
10 for releasing the Plaintiffs’ Released Claims against the Released Parties. The Agreement provides
11 for service awards as the named Plaintiffs not only served as the representatives for these
12 claims, but also are entitled to compensation for their general release, which includes a release
13 of the underlying wage claims which give rise to the alleged PAGA violations resolved by this
14 PAGA Settlement. This amount shall be paid exclusively from the Gross PAGA Settlement Amount.
15 Declaration of the Plaintiffs in support of the Motion to Approve the PAGA Settlement from Plaintiffs
16 Monica Barbery, Francisco Garcia, and Kadie Freeman are submitted herewith in support as.
17 Defendant has agreed not to oppose Plaintiffs’ request for Service Awards in this amount. In the class
18 context, service awards are awarded in this amount. See e.g. *Andrews v. Plains All Am. Pipeline L.P.*,
19 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (finding that the requested service awards of
20 \$15,000 each are appropriate). Here, the service awards are also to resolve the underlying wage and
21 hour claims, beyond the PAGA release, which the Plaintiffs would otherwise prosecute in arbitration.

22
23 19. Dismissal of Representative Claims – In exchange for the Gross PAGA Settlement
24 Amount of \$2,400,000, the Agreement provides for the accompanying Proposed Order and Judgment
25 to be entered. The LWDA and the Aggrieved Employees will be compensated for the dismissal of
26 this action pursuant to the Agreement and the Judgment. The Judgment makes clear that no individual
27 claims of the Aggrieved Employees are being affected or released.

20. The release of claims for PAGA penalties appears in the Agreement at paragraph 5.2. The release makes clear that it binds only the named Plaintiff and the State of California. The “Released Parties” are limited to “Defendant each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successor, assigns, subsidiaries or affiliates, including, but not limited to, Defendant Compass Group USA, Inc..” at paragraph 1.26 of the Agreement. The release at paragraph 5.2 is appropriately limited to “claims for PAGA Penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notices submitted by Plaintiffs to the LWDA, which occurred during the PAGA Period, including claims under California Labor Code Sections 201, 202, 203, 204, 210, 216, 218, 222, 225.5, 226, 226.3, 226.7, 227.3, 233, 234, 246, 246.5, 432, 510, 512, 516, 551, 552, 558, 558.1, 1174, 1182.12, 1193, 1193.6, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and 2810.5” listing the violations alleged in the PAGA Notice to the LWDA.

21. Uncashed Checks – Under the Agreement at paragraph 4.4.3, individual uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the Casa San Mateo in the name of the individual who failed to cash their check pursuant to the California Code of Civil Procedure section 384(b). Casa San Mateo is the Court Appointed Special Advocates for Children, which is a non-profit that provides representation/support for children going through the judicial system and provides a distribution that promotes justice for all Californians consistent with CCP 384(a).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of March, 2025, at La Jolla, California.

/s/ Sergio J. Puche
Sergio J. Puche

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Francisco Garcia, Kadie Freeman, and Monica Barbery (“Plaintiffs”) and defendant Bon Appétit Management Co. (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” collectively means the Plaintiffs’ PAGA lawsuits alleging wage and hour violations against Defendants captioned: (1) *Francisco Garcia vs. Bon Appétit Management Co.; Compass Group USA, Inc.*, (Case No. 23CV422469) PAGA Notice served on May 22, 2023, complaint filed on September 15, 2023, and pending in Superior Court of the State of California, County of Santa Clara; (2) *Kadie Freeman vs. Bon Appétit Management Company; and, Compass Group USA, Inc.*, (Case No. 23-CIV-01497), PAGA Notice served on March 29, 2023, complaint filed on September 15, 2023, operative first amended complaint filed on June 12, 2023 and pending in Superior Court of the State of California, County of San Mateo; and (3) any amended complaint which is to be filed in the *Freeman* matter in the County of San Mateo to encompass the *Garcia* and *Freeman* matters.
- 1.2. “Administrator” means Atticus Administration, LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross PAGA Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employees” means all individuals who are or were previously employed by Defendant Bon Appétit Management Co in California and classified as a non-exempt at any time during the PAGA Period, but excluding those who performed work at Chase Center and/or Oracle Park.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

- 1.7. “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.8. “Court” means the Superior Court of California, County of San Mateo.
- 1.9. “Defendant” means named defendant Bon Appétit Management Co.
- 1.10. “Defense Counsel” means Lonnie Giamela and Areen Babajanian of Fisher & Phillips, LLP.
- 1.11. “Effective Date” means the date on which the Court’s order approving the settlement and its entry of Judgment become Final, which shall mean the latest of the following as applicable: (i) if there is no appeal, the date that is 61 days after the Judgment; (ii) if there is an appeal of the Court’s judgment, the date the order and judgment approving the settlement are affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court; or (iii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the order and judgment approving the settlement are affirmed pursuant to such petition.
- 1.12. “Gross PAGA Settlement Amount” means the total sum of Two Million Four Hundred Thousand Dollars and Zero Cents (\$2,400,000.00) which is the maximum amount Defendant agrees to pay under the Settlement, except as provided in paragraph 8 below. The Gross PAGA Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Service Awards and the Administrator Expenses.
- 1.13. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Payment calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.14. “Judgment” means the judgment entered by the Court based upon the Approval Order.
- 1.15. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.16. “LWDA PAGA Payment” means the 75% of the PAGA Payment paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.17. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.18. “PAGA Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevor G.

Moran of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP [“BNBD”], and Jenny D. Baysinger and Robert J. Wassermann of Mayall Hurley P.C. [“MH”], the collective attorneys representing the Plaintiffs in the Action.

- 1.19. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.20. “PAGA Notices” means Plaintiff Garcia’s May 22, 2023 letter to Defendant and the LWDA, Plaintiff Garcia’s February 7, 2024 amended letter to Defendant and the LWDA, and Plaintiff Freeman’s March 29, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.21. “PAGA Payment” means the Gross PAGA Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Service Awards, and Administration Expenses Payment, which after these deductions is the total amount of PAGA civil penalties to be paid from the Gross PAGA Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.22. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.23. “PAGA Period” means the period from August 28, 2022 through August 28, 2024.
- 1.24. “Plaintiffs” means Francisco Garcia, Kadie Freeman, and Monica Barbery, the named plaintiffs in the Action.
- 1.25. “Released PAGA Claims” means the claims being released by the Plaintiffs and PAGA Counsel and as described in Paragraph 5.2 below.
- 1.26. “Released Parties” means Defendant each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successor, assigns, subsidiaries or affiliates, including, but not limited to, Defendant Compass Group USA, Inc.
- 1.27. “Service Award(s)” means the service payments made to the Plaintiffs in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiffs.
- 1.28. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS

- 2.1. On April 4, 2023, Plaintiff Freeman commenced the Action by filing a Class Action Complaint for Damages against Defendant. On June 12, 2023, Plaintiff Freeman filed a First Amended Complaint to Assess and Collect Civil Penalties against Defendant (the “Freeman Action”) alleging a single cause of action for recovery of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*].
- 2.2. On September 15, 2023, Plaintiff Garcia commenced the Action by filing a Representative Action Complaint against Defendant (the “Garcia Action”) alleging a single cause of action for recovery of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*].
- 2.3. As part of this Agreement, the Parties agree to stipulate to the filing of a First Amended Representative Action Complaint in the Freeman Action that adds Plaintiffs Garcia and Barbery as additional PAGA Representatives and all PAGA claims from the Garcia Action, after which the Garcia Action will be dismissed without prejudice. The First Amended Representative Action Complaint is the operative complaint in the Action (the “Operative Complaint.”).
- 2.4. Defendant denies the allegations in the Operative Complaint, the Freeman Action, the Garcia Action, and the PAGA Notices, denies any failure to comply with the laws identified in the Operative Complaint, the Freeman Action, the Garcia Action, and the PAGA Notices and denies any and all liability for the causes of action alleged.
- 2.5. Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notices.
- 2.6. On June 12, 2024, the Parties participated in an all-day mediation presided over by Lisa Klerman, Esq. The Parties participated in an additional half day mediation on July 26, 2024, which ultimately led to this Agreement to settle the Action.
- 2.7. Prior to mediation, Plaintiffs obtained, through informal discovery, documents relating to Defendant’s policies, practices, and procedures regarding paying non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and operations policies, and more.

3. MONETARY TERMS.

- 3.1. Gross PAGA Settlement Amount. Except as provided in paragraph 8 below, Defendant promises to pay \$2,400,000 and no more as the Gross PAGA Settlement Amount. The Gross PAGA Settlement Amount includes the Individual PAGA Payments to the Aggrieved Employees, the Service Awards, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses

Payment, and the Administration Expenses Payment. Defendant has no obligation to pay the Gross PAGA Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross PAGA Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. The Gross PAGA Settlement Amount shall be all-in and none of the Gross PAGA Settlement Amount will revert to Defendant.

- 3.2. Payments from the Gross PAGA Settlement Amount. The Administrator will make and deduct the following payments from the Gross PAGA Settlement Amount, in the amounts specified by the Court in the Approval Order:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3rd) of the Gross PAGA Settlement Amount which is currently estimated to be \$800,000 and PAGA Counsel Litigation Expenses Payment of not more than \$35,000. PAGA Counsel Fees Payment shall be allocated among PAGA Counsel as follows: 50% to BNBD and 50% to MH. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the PAGA Payment. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of the PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed \$27,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$27,500, the Administrator will retain the remainder in the PAGA Payment.

3.2.3 To the LWDA and Aggrieved Employees: PAGA Payment in the amount of not less than \$1,492,500 to be paid from the Gross PAGA Settlement Amount, with 75% (no less than \$1,119,375) allocated to the LWDA PAGA Payment and 25% (no less than \$373,125) allocated to the Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Payment by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and

liability for any taxes owed on their Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

3.2.4 To Plaintiffs: Plaintiffs shall request from the Court Service Award payments in the amount of \$15,000.00 each, for a cumulative total of \$45,000, as recognition for Plaintiffs' efforts in securing this Settlement for the benefit of the Aggrieved Employees and the LWDA and in exchange for releasing the Plaintiffs' Released Claims against the Released Parties. This amount shall be paid exclusively from the Gross PAGA Settlement Amount. Defendant shall not oppose Plaintiffs' request for Service Awards in this amount. In the event the Service Awards are approved for less than \$15,000.00 each to the Plaintiffs, the unawarded difference will be added to the PAGA Payment and not to Plaintiffs, PAGA Counsel, or Defendant. This payment will be reported on IRS Form 1099 issued to the Plaintiffs by the Settlement Administrator. Notwithstanding any other term of this Settlement Agreement, any reduction by the Court of the Service Awards shall not be sufficient grounds to void the Settlement Agreement.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records, Defendant estimates there are approximately 12,050 Aggrieved Employees who worked an approximate total of 400,000 PAGA Pay Periods from the beginning of the PAGA Period.

4.2. Aggrieved Employee Data. Within fifteen (15) days of the Court's issuance of an Order approving this Settlement, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel and the Administrator if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross PAGA Settlement Amount. Defendant shall fully fund the Gross PAGA Settlement Amount by transmitting the funds to the Administrator no later than fourteen (14) calendar days after the Effective Date.

4.4. Payments from the Gross PAGA Settlement Amount. Within fourteen (14) calendar

days after Defendant funds the Gross PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Service Awards, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the void date (which is 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the Casa San Mateo in the name of the individual who failed to cash their check pursuant to the California Code of Civil Procedure section 384(b).

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses).

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross PAGA Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1. Plaintiffs' Releases. Each of the Plaintiffs and his/her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the

PAGA Notices (“Plaintiffs’ Released Claims”). Plaintiffs’ Releases do not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, claims that cannot be released as a matter of law, or based on occurrences outside the PAGA Period. Plaintiffs acknowledge that he/she may discover facts or law different from, or in addition to, the facts or law that each now knows or believes to be true but agrees, nonetheless, that Plaintiffs’ Released Claims shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ respective discovery of them.

5.1.1 Plaintiffs’ Waivers of Rights Under California Civil Code Section 1542. Plaintiffs’ Released Claims include all claims, whether known or unknown. Even if Plaintiffs discover facts in addition to or different from those that each now knows or believes to be true with respect to the subject matter of Plaintiffs’ Released Claims, those claims will remain released and forever barred. Thus, Plaintiffs, and each of them, expressly waives and relinquishes the provisions, rights and benefits of Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Aggrieved Employees:

Upon full funding of the Gross PAGA Settlement Amount, the State of California, and all Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, will be deemed to release the Released Parties from all “Released PAGA Claims”. “Released PAGA Claims” means all claims for PAGA Penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notices submitted by Plaintiffs to the LWDA, which occurred during the PAGA Period, including claims under California Labor Code Sections 201, 202, 203, 204, 210, 216, 218, 222, 225.5, 226, 226.3, 226.7, 227.3, 233, 234, 246, 246.5, 432, 510, 512, 516, 551, 552, 558, 558.1, 1174, 1182.12, 1193, 1193.6, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2804, and 2810.5. The Released PAGA Claims expressly excludes all other claims, including Plaintiffs’ individual claims, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside of the PAGA period. In no event shall the release of the Released PAGA Claims in this Settlement Agreement release any individual claims of any individuals.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval to the Administrator.

6.2 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Atticus Administration, LLC ("Atticus" of the "Administrator") to serve as the Administrator and verified that, as a condition of appointment, Atticus agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for the purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE

Based on its records, Defendant estimates there are approximately 12,050 Aggrieved Employees who worked an approximate total of 400,0000 PAGA Pay Periods during the PAGA Period. Defense Counsel (or other authorized representation for Defendant) will verify the number of PAGA Pay Periods during the PAGA Period prior to the filing of the motion for approval. If the number of PAGA Pay Periods represented prior to the filing of the motion for approval for the PAGA Period is incorrect by more than 10%, then the Gross PAGA Settlement Amount will be increased proportionately. For example, if the actual number of PAGA Pay Periods is 11% higher than 400,000 (i.e. 444,000), the Gross PAGA Settlement Amount will be increased by 1%. In the alternative, the Defendant may elect to shorten the release period to stay within the 10% cushion, cutting off the PAGA Period on the date where 440,000 pay periods are reached.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement pursuant to C.C.P. Section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the PAGA Payment.

10. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint or the PAGA Notices have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs, or any of them, that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. Defendant expressly denies all liability for any wrongdoing alleged by Plaintiffs. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to

settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of the mediator, Lisa Klerman, Esq., for resolution.
- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiffs, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will

be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.12 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.13 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Norman Blumenthal
norm@bamlawca.com
Kyle R. Nordrehaug
kyle@bamlawca.com
Aparajit Bhowmik
aj@bamlawca.com
Nicholas J. De Blouw
deblouw@bamlawca.com
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, California 92037
Phone: (858) 551-1223
Facsimile: (858) 551-1232

Jenny D. Baysinger
jbaysinger@mayallaw.com
Robert J. Wassermann
rwassermann@mayallaw.com
Mayall Hurley P.C.
112 S. Church Street
Phone: (209) 477-3833
Facsimile: (209) 473-4818

To Defendant: Lonnie Giamela
lgiamela@fisherphillips.com
Areen Babajanian
ababajanian@fisherphillips.com
Fisher & Phillips, LLP
444 S. Flower Street, Suite 1500
Los Angeles, CA 90071
Phone: (213) 330-4500
Facsimile: (213) 440-4501

- 10.14 Execution in Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, this Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.15 Court Filings. The Parties agree not to object to any Court filings consistent with this Agreement.
- 10.16 No Other Pending Claims. Plaintiffs each represent that he/she does not have any other pending claims, complaints, charges, or lawsuits of any kind whatsoever with any court, governmental agency, or other regulatory body with respect to any matter arising out of their employment with Defendant, or otherwise related to Defendant.
- 10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process. In the event the settlement is not finally approved, or is terminated, cancelled or fails to become effective for any reason, the Parties shall revert back to their respective positions as of before entering into the settlement. The Parties shall cooperate in good faith to secure a court order staying the Action and all deadlines, pending implementation of the settlement. If the Court denies approval of the settlement, the Parties will resume litigation.

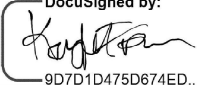
11. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 11/12/2024

Francisco Garcia
Francisco Garcia (Nov 12, 2024 16:36 PST)
Plaintiff Francisco Garcia

Dated: 11/14/2024

DocuSigned by:

9D7D1D475D674ED...
Plaintiff Kadie Freeman

Dated: _____

Plaintiff Monica Barbery

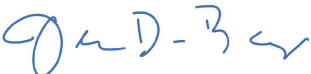
Dated: _____

For Defendant Bon Appétit Management Co.

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: 11/14/2024


Jenny D. Baysinger
Mayall Hurley P.C.
Attorney for Plaintiff

Dated: _____

Lonnie Giamela
Fisher & Phillips, LLP
Attorneys for Defendant

Dated: _____

Plaintiff Kadie Freeman

Dated: 11/12/2024

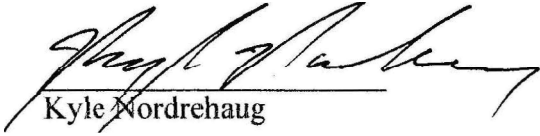
Monica Barbery
Monica Barbery (Nov 12, 2024 20:17 PST)

Plaintiff Monica Barbery

Dated: _____

For Defendant Bon Appétit Management Co.

Dated: 11/14/24



Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: _____

Jenny D. Baysinger
Mayall Hurley P.C.
Attorney for Plaintiff

Dated: _____

Lonnie Giamela
Fisher & Phillips, LLP
Attorneys for Defendant

Dated: _____

Plaintiff Kadie Freeman

Dated: _____

Plaintiff Monica Barbery

Dated: 11/27/24

Kathryn Gillette Collins

Kathryn G Collins
For Defendant Bon Appétit Management Co.

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: _____

Jenny D. Baysinger
Mayall Hurley P.C.
Attorney for Plaintiff

Dated: November 27, 2024

Lonnie Giamela

Lonnie Giamela
Fisher & Phillips, LLP
Attorneys for Defendant

EXHIBIT 2

Blumenthal Nordrehaug Bhowmik DeBlouw LLP

2255 CALLE CLARA
LA JOLLA, CA - California 92037-3107

INVOICE

Invoice # 2
Date: 03/13/2025
Due On: 04/12/2025

Francisco Garcia
836 Emory St, Apt 5
San Jose, CA 95126

CA2959

Bon Appetit Co.

Services

Attorney	Date	Notes	Quantity	Rate	Total
NDB	04/22/2023	Reiew and analyze original intake notes. Legal research regarding related litigation in State and Federal Courts. Research Defendant's business operations in CA. Conference with Plaintiff to discuss case status and claims.	3.50	\$850.00	\$2,975.00
NDB	04/24/2023	Review documents and emails from Plaintiff regarding discrimination and off the clock work tasks. Review and analyze recent settlements and court opinions regarding the same. Review PAGA website and CA Sec. of State business search information.	3.70	\$850.00	\$3,145.00
NDB	05/01/2023	Review entire employment file for legal claims. Analyze all paystubs for 226(a) and overtime violations. Legal research regarding the same. Conference with Plaintiff to discuss background facts from complaint and case status.	4.40	\$850.00	\$3,740.00
NDB	05/04/2023	Draft complaint. Analyze facts and law.	4.10	\$850.00	\$3,485.00
NDB	05/15/2023	Draft complaint. Analyze rest break and 2802 claims - legal research. Send complaint to Plaintiff for approval to file. Conference with Plaintiff to discuss revisions and process of lawsuit. Revise complaint for filing.	4.50	\$850.00	\$3,825.00
NDB	05/16/2023	Review complaint and employment file. Draft internal case notes memo detailing facts and	1.90	\$850.00	\$1,615.00

		violations.			
NDB	05/22/2023	Review document file and complaint, Research PAGA claims and penalties. Draft PAGA Notice and upload to LWDA website.	2.10	\$850.00	\$1,785.00
JH	06/09/2023	Review/analyze letter from defendant re defendant's claimed deficiencies in PAGA notice; advise team	0.50	\$750.00	\$375.00
TM	07/06/2023	Correspondence with Opposing Counsel: Email to OPC re Employee records request.	0.30	\$450.00	\$135.00
NDB	07/15/2023	Review arbitration agreement terms. Conference with Plaintiff to discuss facts surrounding the signing of the arbitration agreement. Legal research regarding enforceability and procedural and substantive unconscionability.	3.40	\$850.00	\$2,890.00
NDB	08/05/2023	Review and analyze original intake notes of additional Plaintiff Barbery. Review and analyze employment file for legal claims. Conference with Plaintiff Barbery to discuss claims and inclusion in lawsuit. Legal research regarding vacation pay and 203 penalty claims.	3.10	\$850.00	\$2,635.00
RE	09/11/2023	Review case notes/damage analysis	1.00	\$675.00	\$675.00
RE	09/12/2023	Review & analyze employment file documents	3.50	\$675.00	\$2,362.50
RE	09/14/2023	Review file; draft PAGA only complaint	5.50	\$675.00	\$3,712.50
RE	09/14/2023	Draft summons and civil case cover sheet	0.50	\$675.00	\$337.50
NDB	09/14/2023	Review PAGA Notice. Review and revise PAGA only complaint. Discuss with R. Ehmann. Status update to Plaintiff.	1.90	\$850.00	\$1,615.00
RE	09/15/2023	Review & finalize PAGA only complaint package; file in Santa Clara Sup. Ct.	0.75	\$675.00	\$506.25
RE	09/15/2023	Review court returned docs; review civil lawsuit notice, review docket; memo to firm re judicial/ department assignment and status of initial case management conference	0.50	\$675.00	\$337.50
RE	09/15/2023	Provide notice to LWDA of PAGA action filing	0.40	\$675.00	\$270.00
RE	09/15/2023	Review file; prep initial docs for service of process; identify reg. agents; send out for service via Knox	1.00	\$675.00	\$675.00
HD	09/18/2023	Review filed Paga complaint. Add case to Master Case Sheet. Create Case Management Flow Chart. Email introductory correspondence to client now that Complaint has been filed. Register to track the case via Lexis-Court Link.	0.50	\$250.00	\$125.00

TM	09/20/2023	Review and Analyze: Reviewed and analyzed Court Order Deeming Case Complex and Staying Discovery and Responsive Pleading Deadline.	0.30	\$450.00	\$135.00
SP	09/20/2023	Reviewed Court Order re: Notice of CMC. Discussed internally with HD and RE. Arranged for Service of notice on Defendant Agent for Service.	0.70	\$675.00	\$472.50
NDB	09/29/2023	Review and research related litigation and overlap of claims. Review and revise joint prosecution agreement. Analyze court dockets. Send JPA to Plaintiff for signatures. Calls to discuss JPA terms and case status.	1.70	\$850.00	\$1,445.00
JH	10/16/2023	Review/analyze docs in file from 1198.5 req. and Plaintiff; create exhibit book and update case notes; advise team	2.50	\$750.00	\$1,875.00
HD	11/07/2023	Receive and review notification from Lexis of case information. Court changed the 02/01/2024 hearing from department 1 to department 7. Email staff to edit calendar entry accordingly.	0.20	\$250.00	\$50.00
SB	11/10/2023	Review complaint, analyze, advise ND	2.60	\$450.00	\$1,170.00
SB	11/20/2023	Revise complaint, advise ND	2.80	\$450.00	\$1,260.00
RE	12/07/2023	Review file; file proof of service of summons re PAGA action re 2 defendants	0.50	\$675.00	\$337.50
JH	12/28/2023	Review file; correspondence with client re status update	0.40	\$750.00	\$300.00
TM	12/28/2023	Reviewed Court's Order and Notice of Reassignment of Case.	0.20	\$450.00	\$90.00
TM	01/17/2024	Reviewed Court's notice of rescheduled CMC.	0.20	\$450.00	\$90.00
SP	01/22/2024	Reviewed file, docker, JPA and Mediation Documents. Discussed discovery extension and next steps with JSH.	0.50	\$675.00	\$337.50
SP	01/22/2024	Reviewed documents, case notes and pleadings. Emailed clients and left voicemails. Drafted Mediation Data request. Sent Mediation Data Request to co-counsel	2.70	\$675.00	\$1,822.50
SP	01/23/2024	Reviewed court orders, notice, proof of service, docket, case notes, correspondence and pleadings. Drafted Joint Statement and sent to OPC.	1.70	\$675.00	\$1,147.50
JH	01/24/2024	Review/analyze Defendant's revisions to joint CMC	0.30	\$750.00	\$225.00
JH	01/24/2024	Review Defendant's portion of joint report; advise SP	0.30	\$750.00	\$225.00

HD	01/24/2024	Execute and finalize Proof of Service. Process and submit Joint Initial Status Conference Statement to Court for filing via One Legal and serve via email.	0.50	\$250.00	\$125.00
SP	01/24/2024	Mediation audit for scheduled mediation.	0.20	\$675.00	\$135.00
SP	01/24/2024	Reveiwed revisions from OPC. Revised and sent to OPC. Further revised finalized and arranged for service and filing of Joint Statement. Sent email and left message for Client to contact me.	1.70	\$675.00	\$1,147.50
TM	01/25/2024	Reviewed court's notice of rescheduled CMC.	0.20	\$450.00	\$90.00
SP	01/26/2024	Discussed case with client Garcia and updated case notes and mediation folder. Sent follow up email to client requesting additional documents.	1.70	\$675.00	\$1,147.50
SP	01/29/2024	Reviewed co-counsels revisions. Correspondence with Co-Counsel. Revised, finalized and served Mediation Data Request on Defendant.	1.30	\$675.00	\$877.50
JH	01/29/2024	Review/revise draft Mediation Data request	0.70	\$750.00	\$525.00
SP	02/07/2024	Reviewed case notes, PAGA Notice and Compliant. Drafted Amended PAGA Notice and Amended Complaint. Discussed with NJD and JSH. Sent Amended Complaint to Client Barbary for approval.	2.80	\$675.00	\$1,890.00
TM	02/07/2024	Discussion with team re status of Defendant's mediation document production; Email to OPC re Defendant's mediation document production.	0.50	\$450.00	\$225.00
SP	02/07/2024	Mediation Audit pre Paternity Leave, sent to AJB and Team.	0.30	\$675.00	\$202.50
JH	02/08/2024	Advise SP re amended complaint and amended PAGA notice	0.50	\$750.00	\$375.00
JH	02/22/2024	Correspondence w defense counsel and mediator re rescheduled mediation	0.20	\$750.00	\$150.00
TM	02/23/2024	Reviewed and analyzed Defendant's notice of related cases.	0.20	\$450.00	\$90.00
JH	02/23/2024	Review Defendant's Notice of Related case; research related matter and save to file; advise AJB and team	1.00	\$750.00	\$750.00
SP	02/28/2024	Reveiwed calendar, docket, case file and correspondence in preparation for hearing/ appearance. Discussed with Team.	0.20	\$675.00	\$135.00
SP	03/05/2024	Reveiwed case notes, calendar. Corresponded with Client.	0.50	\$675.00	\$337.50
TM	03/11/2024	Reviewed and analyzed new client documents in	0.40	\$450.00	\$180.00

		preparation for mediation.			
NB	03/22/2024	review docs, analyze re settlement issues.	2.50	\$995.00	\$2,487.50
HD	04/25/2024	Review Court Case Docket and confirm CMC for 05/02/2024 is still on calendar. Research and obtain remote appearance information. Circulate information to handling attorneys and update weekly events calendar.	0.20	\$250.00	\$50.00
SP	04/25/2024	Reviewed case notes, orders, pleadings and register of actions. Drafted Joint Status Conference Statement. Finalized and arranged for filing and service of Status Conference Statement.	1.60	\$675.00	\$1,080.00
HD	04/26/2024	Execute and finalize Proof of Service. Process and submit the Joint Case Management Conference Statement to court for filing and served via email.	0.50	\$250.00	\$125.00
TM	04/26/2024	Reviewed court's notice of rescheduled CMC.	0.20	\$450.00	\$90.00
TM	05/01/2024	Planned and prepared for upcoming CMC.	0.50	\$450.00	\$225.00
TM	05/02/2024	Reviewed Court docket and notice of rescheduled CMC; advised firm re status of case.	0.40	\$450.00	\$180.00
NDB	05/15/2024	Review and analyze data produced by Defendant and through discovery for mediation purposes. Analyze related litigation. Review Defendant's wage and hour policy documents. Calls with Plaintiff regarding mediation process, settlement authority and background facts for claims in mediation brief. Prepare for mediation.	4.70	\$850.00	\$3,995.00
JH	05/20/2024	Review/analyze Defendant's med doc/data production; circulate and update file.	2.00	\$750.00	\$1,500.00
JH	05/22/2024	Review file and correspondence; advise AJB for purposes of mediation	0.40	\$750.00	\$300.00
NDB	05/22/2024	Review case demographics. Draft MOU for mediation. Legal research regarding previous PAGA only settlements with similar claims and pay periods for mediation valuation.	3.30	\$850.00	\$2,805.00
JH	05/28/2024	Review/analyze corresp from defense counsel re size of class and class composition; update file; discuss with team	0.40	\$750.00	\$300.00
SP	05/28/2024	Discussed Mediation data analysis with Expert and Co-Counsel.	0.90	\$675.00	\$607.50
NDB	05/28/2024	Analyze pay stub exemplars for 226(a) and overtime claims. Review sick and vacation pay claims. Legal research regarding the same.	2.70	\$850.00	\$2,295.00

JH	05/29/2024	Review expert updated analysis	0.30	\$750.00	\$225.00
NDB	06/01/2024	Review facts and case file. Draft mediation brief. Status update to Plaintiff.	4.90	\$850.00	\$4,165.00
SB	06/03/2024	Speak with client in advance of mediation, analyze claims, advise AJB	2.60	\$450.00	\$1,170.00
SP	06/04/2024	Reveiwed documents, case notes, mediation file and correspondence. Revised and finalized Exhibit Book and Mediation folder in anticipation of Mediation. Corresponded with Experts. Emailed Co-Counsel with case notes. Emailed Opposing counsel for Missing documents and data.	6.80	\$675.00	\$4,590.00
JH	06/04/2024	Review/analyze expert analysis for mediation	0.70	\$750.00	\$525.00
JH	06/05/2024	Review/revise draft mediation brief prepared by co-counsel; discuss with AJB	1.20	\$750.00	\$900.00
JH	06/06/2024	Review updated mediation data analysis from expert	0.40	\$750.00	\$300.00
SB	06/06/2024	Add individual claims to case notes, calculate individual damages, advise AJB	2.60	\$450.00	\$1,170.00
SB	06/10/2024	Prepare for mediation, review and analyze mediation brief, advise AJB	2.60	\$450.00	\$1,170.00
NDB	06/11/2024	Review all mediation materials including briefs and exhibits thereto. Analyze expert penalty report and notes and assumptions. Prepare for mediation.	2.00	\$850.00	\$1,700.00
AB	06/12/2024	Prep and appear for mediation.	6.00	\$895.00	\$5,370.00
SB	06/12/2024	Attend mediation	8.00	\$450.00	\$3,600.00
JH	06/13/2024	Discuss with AJB re outcome of mediation and second session of mediation calendared	0.60	\$750.00	\$450.00
NDB	06/14/2024	Status update to two Plaintiffs regarding mediation results.	0.70	\$850.00	\$595.00
AB	07/09/2024	Review/analyze corr between counsel re upcoming second mediation. Review/analyze notes from first mediation. Prep for second mediation.	2.00	\$895.00	\$1,790.00
SP	07/11/2024	Reviewed documents, correspondence and mediation utilities in advance of continued Mediation.	0.40	\$675.00	\$270.00
AB	07/17/2024	Review/analyze corr from mediator re settlement.	1.00	\$895.00	\$895.00
NDB	07/24/2024	Review updated data set and first mediation results and notes. Analyze briefs and exhibits.	1.80	\$850.00	\$1,530.00

		Status update with Plaintiff regarding second mediation.			
JH	07/26/2024	Research mediation issues and advise AJB; review mediators proposal and discuss with AJB	2.00	\$750.00	\$1,500.00
AB	07/26/2024	Prep and appear for mediation.	5.00	\$895.00	\$4,475.00
SB	07/26/2024	Attend second mediation	5.40	\$450.00	\$2,430.00
TM	08/05/2024	Email to and from OPC re Joint Statement.	0.40	\$450.00	\$180.00
TM	08/05/2024	Review file; Drafted Joint Statement; Email to OPC re Joint Statement.	0.70	\$450.00	\$315.00
JH	08/05/2024	Review/analyze draft Joint CMC stmt; advise TM	0.40	\$750.00	\$300.00
TM	08/06/2024	Discussed case status with team to draft joint CMC statement; Email to OPC re joint CMC statement.	0.40	\$450.00	\$180.00
TM	08/07/2024	Email from OPC re joint CMC statement.	0.20	\$450.00	\$90.00
TM	08/09/2024	Finalized and signed Joint CMC Statement; advised HD re filing/service; Emails from OPC re joint statement.	0.80	\$450.00	\$360.00
HD	08/09/2024	Execute and finalize Proof of Service. Process and submit Joint Case Management Statement to Court for filing via One Legal and served via email.	0.50	\$250.00	\$125.00
TM	08/09/2024	Reviewed Court's notice of rescheduled CMC.	0.20	\$450.00	\$90.00
JH	08/09/2024	Review correspondence with co-counsel, opposing counsel, and mediator re acceptance of mediators proposal; discuss with AJB re MOU	0.50	\$750.00	\$375.00
AB	08/09/2024	Review/analyze corr re mediator's proposal. Research status of related case. Prep for and have calls w/ cocounsel. Draft / circulate MOU. Research Court deadlines / rules / procedures / assess firm's adherence to the same.	4.00	\$895.00	\$3,580.00
JH	08/13/2024	Review/analyze Co-counsel's proposed revisions to MOU	0.40	\$750.00	\$300.00
JH	08/15/2024	Review Defendant's further revisions to MOU	0.30	\$750.00	\$225.00
SP	08/15/2024	Reviewed correspondence docket and calendar Drafted and sent correspondence to Opp Counsel re Continued hearing.	0.30	\$675.00	\$202.50
NB	08/15/2024	Review MOU, analyze re approval issues. Advise AJ.	3.00	\$995.00	\$2,985.00
TM	08/16/2024	Reviewed Court's order and notice relating action and reassigning case.	0.30	\$450.00	\$135.00

NDB	08/16/2024	Review second mediation notes and results. Review and analyze MOU terms. Send MOU to two Plaintiffs for signatures. Calls and emails explaining terms and settlement amounts.	1.50	\$850.00	\$1,275.00
AB	08/19/2024	Review/analyze corr from defendant re MOU. Research 664.6 and law on signatures. Draft/ send responsive corr.	2.00	\$895.00	\$1,790.00
TM	08/20/2024	Review file; drafted Declaration of Plaintiff Garcia ISO motion for PAGA approval; drafted Declaration of Plaintiff Barbary ISO motion for PAGA approval.	3.50	\$450.00	\$1,575.00
JH	09/04/2024	Obtain settlement admin bid; discuss with co-counsel	0.30	\$750.00	\$225.00
JH	09/05/2024	Review MOU; research procedural posture; draft longform PAGA agreement; discuss with KN; circulate to co-counsel for review	3.00	\$750.00	\$2,250.00
JH	09/09/2024	Request settlement admin bids; review and compare	0.30	\$750.00	\$225.00
TM	09/10/2024	Email to and from co-Plaintiff's counsel re operative complaint and amended complaint.	0.40	\$450.00	\$180.00
SP	09/10/2024	Reviewed correspondence from OPC re: Amending the complaint and MOU.	0.70	\$675.00	\$472.50
JH	09/11/2024	Review/analyze revisions by co-counsel to longform; discuss with KN	0.70	\$750.00	\$525.00
KN	09/12/2024	Review draft agreement; review co-counsel revisions to agreement; review memo from JH and analyze and respond to issues	2.00	\$950.00	\$1,900.00
JH	09/13/2024	Accept co-counsel's proposed revisions to longform; further revise and circulate to defendant for review; advise team re FAC and PAGA approval motion	1.00	\$750.00	\$750.00
JH	09/18/2024	Review file and corresp; f/u with defense counsel re revisions to longform agreement	0.30	\$750.00	\$225.00
JH	10/02/2024	F/u with defense counsel re revisions to longform	0.20	\$750.00	\$150.00
TM	10/03/2024	Email to co-counsel re status of amended complaint.	0.20	\$450.00	\$90.00
TM	10/04/2024	Email to OPC re FAC and stipulation.	0.20	\$450.00	\$90.00
JH	10/07/2024	Review/analyze draft FAC: revise and advise TM	1.50	\$750.00	\$1,125.00
JH	10/07/2024	F/u with defense counsel re longform	0.20	\$750.00	\$150.00
JH	10/10/2024	Review/analyze Defendant's proposed revisions to longform; discuss with KN; circulate to co-	1.40	\$750.00	\$1,050.00

counsel for review					
KN	10/10/2024	Review draft Agreement and review Defendant's revisions; analysis of issues raised by JH; respond and advise JH	1.00	\$950.00	\$950.00
HD	10/15/2024	Review ROA for current status of CMC hearing. Review current Orders from the Court. Draft shell for Joint CMC Statement. Forward to Attorney Herman to complete and finalize.	0.30	\$250.00	\$75.00
TM	10/16/2024	Email from co-counsel re SAC draft; reviewed proposed SAC.	1.40	\$450.00	\$630.00
JH	10/16/2024	Review w/analyze file; draft joint report; circulate to defense counsel for review; finalize and prepare for filing	0.60	\$750.00	\$450.00
JH	10/16/2024	Review revisions to draft FAC; advise TM	0.40	\$750.00	\$300.00
HD	10/16/2024	Execute and finalize Proof of Service. Process and submit Joint CMC Statement to Court for filing via One Legal and serve via email.	0.50	\$250.00	\$125.00
TM	10/22/2024	Reviewed Court's judicial disclosure.	0.20	\$450.00	\$90.00
SP	10/23/2024	Reviewed MOU and Settlement agreement. Discussed with JSH.	0.50	\$675.00	\$337.50
SP	10/24/2024	Reviewed and analyzed case notes, correspondence, MOU and Settlement Agreement. Revised and finalized PAGA Preliminary approval Motion.	3.20	\$675.00	\$2,160.00
TM	10/27/2024	Reviewed Court's notice of CMC.	0.20	\$450.00	\$90.00
SP	10/29/2024	Reviewed and revised Second Amended Complaint. Corresponded with Team.	0.50	\$675.00	\$337.50
TM	10/30/2024	Discussed revisions to SAC with team; email to co-counsel re SAC.	0.40	\$450.00	\$180.00
JH	10/30/2024	Review Defendant's additional revisions to longform; discuss with KN; advise TM re amended complaint; advise HD re PAGA approval hearing and advise SP re PAGA approval motion	0.50	\$750.00	\$375.00
HD	10/30/2024	Attempt to reserve and obtain available hearing dates for Plaintiff's Motion for Final Approval of Settlement via Court's Reservation system. Directs to contact the court. Email Correspondence to the Court to obtain Court's availability.	0.30	\$250.00	\$75.00
SP	10/30/2024	Reviewed correspondence from JSH. Brief review of PAGA Approval pre Settlement Agreement being finalized.	0.40	\$675.00	\$270.00

JH	11/04/2024	Discuss with KN and ND re longform agreement and operative complaint	0.40	\$750.00	\$300.00
KN	11/04/2024	Review Def revisions to the Agreement, and the emails regarding issues to correct; advise JH	1.00	\$950.00	\$950.00
JH	11/04/2024	Discuss longform with KN; further revise and circulate to all Parties	0.50	\$750.00	\$375.00
JH	11/12/2024	Review/analyze Co-counsel's further revisions to amended complaint; discuss with TM; circulate final longform agreement for execution	0.50	\$750.00	\$375.00
NDB	11/12/2024	Review settlement agreement for conformity with MOU terms. Send agreement to Plaintiffs for review and signature. Conference with Plaintiffs to discuss terms and process of settlement approval. Review court docket and case file.	1.40	\$850.00	\$1,190.00
JH	11/13/2024	Review agreement signed by Plaintiffs; circulate to KN and advise	0.30	\$750.00	\$225.00
JH	12/03/2024	Review fully executed agreement; circulate to KN and NBB; advise SP re PAGA approval motion	0.50	\$750.00	\$375.00
SP	01/07/2025	Reviewed and analyzed mediation documents, expert analysis, settlement agreement, pleadings and revised PAGA Settlement agreement. Requested HD obtain PAGA Approval Motion hearing date.	1.80	\$675.00	\$1,215.00
TM	01/08/2025	Email to client Barbery re declaration ISO PAGA approval; Email to client Garcia re declaration ISO PAGA approval;	0.40	\$450.00	\$180.00
SP	01/08/2025	Reviewed and analyzed case PAGA motion sheet and updated progress. Sent draft and discussed next steps with KN, JH and NB. Drafted initial PAGA Approval Motion based on settlement agreement.	7.20	\$675.00	\$4,860.00
JH	01/08/2025	Review/revised draft PAGA approval motion; advise SP	1.50	\$750.00	\$1,125.00
TM	01/17/2025	Reviewed Court's notice of CMC.	0.20	\$450.00	\$90.00
JH	01/22/2025	Review file; draft joint cmc stmt; circulate to Defendant for review; advise team re dismissal of separate action; review Defendant's proposed revisions; finalize and prepare for filing	0.80	\$750.00	\$600.00
HD	01/22/2025	Review ROA and status of matter. Review recent court orders. Draft shell for the Joint Status Conference Statement. Forward to Attorney Herman for completion and finalization.	0.50	\$250.00	\$125.00
HD	01/22/2025	Prepare Request For Dismissal of PAGA Action without Prejudice. Forward to Attorney Puche for	0.50	\$250.00	\$125.00

		review and finalization.			
HD	01/22/2025	Execute and finalize Proof of Service. Process and submit Joint CMC Statement to Court for filing via One Legal and serve via email.	0.50	\$250.00	\$125.00
HD	01/22/2025	Execute and finalize Proof of Service. Process and submit Request for Dismissal Without Prejudice to Court for filing via One Legal and serve via email.	0.50	\$250.00	\$125.00
SP	03/04/2025	Reveiwed and revised PAGA Approval Motion and Declaration of SJP. Drafted Proposed Order. Sent Emails to Opposing Counsel re: Declaration of Plaintiff and firm for approval Motion. Sent email to TPA for declaration regarding administration. Sent KN draft approval motion.	5.40	\$675.00	\$3,645.00
JH	03/04/2025	Review/revise draft Motion for PAGA Approval and supporting docs; advise SP	1.00	\$750.00	\$750.00
KN	03/07/2025	Review and revise draft motion; research issues; revise proposed order; memo to staff; email counsel with draft motion; review Admin declaration; review responses from counsel as to issues in prior emails.	3.50	\$950.00	\$3,325.00
JH	03/07/2025	Review/analyze KN Rev. to Mtn for PAGA Approval; discuss with SP; review/revise draft declaration in support thereof; advise SP	1.60	\$750.00	\$1,200.00
SP	03/07/2025	Reveiwed and analyzed revisions to the PAGA Approval Motion. Revised Declaration of SJP in support of PAGA Approval Motion. Discussed with JSH. Sent follow up correspondence to Co-Counsel and Expert for Declarations and supporting documents.	2.20	\$675.00	\$1,485.00
KN	03/11/2025	Review and revise declaration ISO motion; work on approval issues; advise SP as to issues to correct and next steps for motion,	2.00	\$950.00	\$1,900.00
SP	03/11/2025	Reviewed KN's revisions to declaration and correspondence re: next steps in PAGA approval Motion. Sent follow up email to TPA for revised Declaration. Confirmed with CO-Counsel their declaration was good for finalizing and requested executed declaration and exhibits.	0.50	\$675.00	\$337.50
SP	03/12/2025	Reveiwed and analyzed revised declaration and exhibits from Administrator. Sent correspondence to KN.	0.40	\$675.00	\$270.00
KN	03/13/2025	Review emails from NBB; research issue and provide answers	0.50	\$950.00	\$475.00
SP	03/13/2025	Revised PAGA approval motion and Declaration. Compiled exhibits for PAGA Approval Motion.	2.10	\$675.00	\$1,417.50

KN	03/13/2025	Review revised declaration; review final draft of motion; double-check figures and compliance; advise SP	2.00	\$950.00	\$1,900.00
				Services Subtotal	\$170,446.25

Expenses

Type	Date	Notes	Quantity	Rate	Total
Expense	05/22/2023	PAGA Filing Fee	1.00	\$75.00	\$75.00
Expense	09/05/2023	KNOX Filing and Messenger Service	1.00	\$119.95	\$119.95
Expense	09/05/2023	KNOX Filing and Messenger Service	1.00	\$59.95	\$59.95
Expense	09/16/2023	Onelegal/court fees	1.00	\$1,496.64	\$1,496.64
Expense	09/21/2023	One Legal Invoice No. 05337923	1.00	\$19.22	\$19.22
Expense	11/16/2023	Mediation Fess - Lisa Klerman.	1.00	\$5,500.00	\$5,500.00
Expense	12/07/2023	Onelegal/Filing Fee	1.00	\$19.22	\$19.22
Expense	12/12/2023	Onelegal/Filing Fee	1.00	\$51.48	\$51.48
Expense	01/25/2024	One Legal Invoice No. 05677704	1.00	\$21.28	\$21.28
Expense	06/14/2024	Mediation Fees - Lisa Klerman.	1.00	\$7,500.00	\$7,500.00
Expense	06/26/2024	Berger Consulting Fees.	1.00	\$5,960.00	\$5,960.00
Expense	08/09/2024	One Legal Invoice No. 06271425	1.00	\$21.28	\$21.28
Expense	03/13/2025	Filing fee - motion	1.00	\$60.00	\$60.00
				Expenses Subtotal	\$20,904.02

Time Keeper	Quantity	Rate	Total
AJ Bhowmik	20.0	\$895.00	\$17,900.00
Norm Blumenthal	5.5	\$995.00	\$5,472.50
Scott Blumenthal	26.6	\$450.00	\$11,970.00
Nicholas De Blouw	57.3	\$850.00	\$48,705.00
Ricardo Ehmann	13.65	\$675.00	\$9,213.75
Jeffrey Herman	33.5	\$750.00	\$25,125.00
Trevor Moran	13.5	\$450.00	\$6,075.00
Kyle Nordrehaug	12.0	\$950.00	\$11,400.00

Sergio Puche	49.2	\$675.00	\$33,210.00
Heather Drosi	5.5	\$250.00	\$1,375.00
Subtotal			\$191,350.27
Total			\$191,350.27

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
2	04/12/2025	\$191,350.27	\$0.00	\$191,350.27
Outstanding Balance				\$191,350.27
Total Amount Outstanding				\$191,350.27

Please make all amounts payable to: Blumenthal Nordrehaug Bhowmik DeBlouw LLP

Please pay within 30 days.

EXHIBIT 3

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

Aparajit Bhowmik

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

Educated: University of California, Irvine; California Western School of Law

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

Educated: University of Rhode Island; California Western School of Law

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles,

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Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter’s Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cyctec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

EXHIBIT 4

LAFFEY MATRIX

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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/24- 5/31/25	1.080182	\$258	\$473	\$581	\$839	\$948	\$1141
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424

6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $\frac{1}{2}$ Years Out of Law School $\frac{1}{2}$ is calculated from June 1 of each year, when most law students graduate. $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier $\frac{1}{2}$ 4-7" on June 1, 1999, and tier $\frac{1}{2}$ 8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 5(A)

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VLADIMIR J. KOZINA

March 29, 2023

SUBMITTED VIA ONLINE CLAIM NOTICE

<https://dir.tfaforms.net/295>

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Bon Appetit Management Co.
201 Redwood Shores Pkwy, Suite 100
Redwood Shores, CA 94065

Compass Group USA, Inc.
2400 Yorkmount Road
Charlotte, NC 28217

Re: Kadie Freeman

DOB: 08/08/1994; SSN: xxx-xx-2055; Personnel # 01144707

To whom it may concern:

This office has been retained by Kadie Freeman ("Freeman") in connection with claims under the California Labor Code and California's Fair Employment & Housing Act ("FEHA") arising out of her employment for Bon Appetit Management Co. and/or Compass Group USA, Inc. ("Employers"). Freeman began working for Employers in approximately August 2017 as a front of the house employee specifically assigned to a restaurant location on a Google campus within Santa Clara County. Freeman was promoted to a prep cook in approximately August 2019 and remained in that position until she was unlawfully replaced in and around January 2023. At all times, Freeman was properly classified by Employers as a non-exempt employee and was therefore entitled to minimum wage for all hours worked, overtime wages, meal and rest periods (and associated premiums), and redeemed paid sick leave in accordance with California law. In accordance with California Labor Code section 2699.3, this letter shall serve as Freeman's written notice to the Labor and Workforce Development Agency ("LWDA") and Employers regarding numerous violations of the California Labor Code committed against Freeman and Employers' other current and/or former California workers, and the facts and circumstances relating thereto.

Employers have, within the last year and beyond, as to Freeman and other current and former non-exempt employees within California, failed to do the following:

1. Pay Wages for All Hours Worked/Pay Minimum Wage for All Hours Worked – California Labor Code section 1197 and paragraph 4 of the applicable Industrial Welfare Commission Wage Order mandate that employees be paid at least minimum wage for all

hours worked. Despite such mandate, Employers routinely failed to pay Freeman for all of the time it knew or should have known that she performed worked. Instead, Employers often credited Freeman only for “scheduled” hours as opposed to actual work hours. In addition, although Freeman was physically at work for at least 1 hour on December 30, 2022 before she had to leave because of an unexpected medical condition. Despite clocking in that day (via a photographic system), Freeman was not compensated for any time worked on December 30, 2022. Freeman is informed and believes that Employers similarly fail to properly pay their other California non-exempt employees for all hours clocked in.

2. Pay Overtime Wages – California Labor Code section 510 requires employers to compensate employees at a rate at least 1 ½ times the regular rate of pay for all hours worked beyond eight (8) in a workday and forty (40) in a workweek, and at least twice the regular rate of pay for all hours worked beyond twelve (12) in a workday and beyond eight (8) on the seventh day of the workweek. Regular rate of pay includes “all remuneration” paid to or on behalf of any employee, unless subject to a specific exemption. 29 U.S.C. § 207(e).

Throughout her employment, Freeman and Employers’ other California non-exempt employees earned non-discretionary bonuses and other items of compensation not subject to the exemptions outlined in 29 U.S.C. section 207(e)(1)-(8). By way of specific example, Freeman was provided with compensation items identified as “Transpo AllowanceGoogle” and “Housing Allowance Google” during each and every pay period that she was assigned to a Google campus. This additional compensation was a component of her compensation package for that assignment and something she became contractually entitled to by virtue of her continued employment with Employers in the specified assignment. *Huntington Memorial Hospital v. Sup. Ct.* (2005) 131 Cal.App.4th 893, 904; *Carlino v. CHG Medical Staffing, Inc.* (E.D. Cal. 2022) 2022 WL 5249439 * 2. Although this amount was plainly an element of remuneration which Freeman was entitled to and paid “for employment”, it was not included in the regular rate of pay for purposes of calculating the rate to be paid to Freeman for overtime hours worked. Instead, Freeman was always compensated solely at the rate of 1 ½ times her base hourly rate for all overtime worked throughout her employment.

Because Employers failed to include all remuneration paid to Freeman in calculating the regular rate of pay, it underpaid her for overtime wages earned and unlawfully deprived her of those earnings. Freeman is informed and believes Employers provided non-discretionary bonuses and other remuneration, including but not limited to housing allowances and vehicle allowances to other California non-exempt employees as well. Freeman is further informed and believes Employers similarly failed to include such remuneration in the regular rate of pay for overtime purposes and thus underpaid other California non-exempt employees for overtime work performed.

3. Properly Calculate and Pay Redeemed Sick Leave Wages – California Labor Code sections 245, et seq. outline a California employer’s obligations with respect to providing, calculating, and paying employees for redeemed paid sick leave. Specifically, California Labor Code section 246, subdivision (l) requires that paid sick time “shall be calculated in the same manner as the **regular rate of pay** for the workweek in which the employee uses paid sick time”. See also *Flores v. Dart Container Corp.* (E.D. Cal. 2020) 2020 WL 2770073 * 3. Just as they do with the “regular rate” for overtime purposes, Employers failed to include all necessary remuneration when calculating the “regular rate” for purposes of redeemed paid sick leave. Instead, Freeman and other California non-exempt employees were compensated for redeemed sick leave only at his/her base hourly rate of pay. Such a violation may properly be redressed through a PAGA action for civil penalties. *Wood v. Kaiser Foundation Hospitals* (2023) 88 Cal.App.5th 742.

4. Furnish Accurate Itemized Wage Statements – Because of the violations set forth above, the wage statements furnished by Employers violated Labor Code section 226(a) insofar as they failed to accurately show:

- a. The gross wages earned as required by section 226(a)(1);
Since Employers did not compensate Freeman and their other California non-exempt employees for all hours worked, or properly calculate and pay for overtime wages and redeemed sick leave, the wage statements issued by Employers necessarily failed to accurately identify gross wages earned;
- b. The total hours worked as required by section 226(a)(2);
Since Employers did not compensate Freeman and their other California non-exempt employees for all hours worked, the wage statements necessarily identified inaccurate total hours worked
- c. The net wages earned in violation of section 226(a)(5); and
Because of the myriad failures to properly pay wages, including failing to pay for all hours worked and failing to properly calculate and pay overtime/redeemed sick leave, the wage statements furnished to Freeman and other employees necessarily failed to accurately identify net wages earned.
- d. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of section 226(a)(9).
Since Employers did not properly calculate the rate of overtime compensation, the wage statements did not accurately reflect the number of hours worked at each rate.

5. Timely Pay Wages – Because Employers failed to properly pay wages for all hours worked when they became due, as outlined in the preceding sections, they necessarily violated the provisions of Labor Code section 204.

6. Pay All Wages on Separation – Because Employers failed, and continue to fail, to properly pay their employees for all hours they know or should know have been worked, or to properly calculate and pay overtime wages and redeemed sick leave, there are necessarily wages that remained outstanding at the time Freeman (and other California employees) separated from employment with Employers that are not timely paid at the end of their employment.

Freeman contends Employers violated numerous Labor Code provisions, including sections 203, 204, 226, 510, and 1197. If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request such and I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Freeman intends to file a civil complaint against Employers pursuant to the Labor Code Private Attorney General Act of 2004 (Labor Code §§ 2698 – 2699.5), on behalf of herself and, as a proxy for the LWDA, to impose civil penalties arising out of violations of the Labor Code as to Freeman and Employers' other current and former California employees. Thank you for your attention to this matter.

Regards,

MAYALL HURLEY P.C.

By 
JENNY D. BAYSINGER

EXHIBIT 5(B)

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

May 22, 2023
CA2959

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Bon Appetit Management Co.
Certified Mail #9589071052700182372619
CSC - Lawyers Incorporating Service
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE, Suite 150N
SACRAMENTO, CA 95833

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Bon Appetit Management Co. and/or Compass Group USA, Inc. in California, including any employees staffed with Bon Appetit Management Co. and/or Compass Group USA, Inc. by a third party, and classified as non-exempt employees during the time period of May 22, 2022 until a date as determined by the Court. Our offices represent Plaintiff Francisco Garcia (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Bon Appetit Management Co. and/or Compass Group USA, Inc. (“Defendant”). Plaintiff has been employed by Defendant in California since May of 2022. Plaintiff has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting

time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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WRITERS EXT:
1004

May 22, 2023
CA2959

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Compass Group USA, Inc.
Certified Mail #9589071052700182372602
CSC - Lawyers Incorporating Service
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE, Suite 150N
SACRAMENTO, CA 95833

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

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Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

FRANCISCO GARCIA, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

BON APPETIT MANAGEMENT CO., a
California Corporation; COMPASS GROUP
USA, INC., a Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
- and,
8. FAILURE TO PAY SICK PAY WAGES IN VIOLATION OF CAL. LAB CODE §§201-204, 233, 246.

DEMAND FOR A JURY TRIAL

1 Francisco Garcia (“PLAINTIFF”), an individual, on behalf of himself and all other
2 similarly situated current and former employees alleges on information and belief, except for
3 his own acts and knowledge which are based on personal knowledge, the following.

4
5 **THE PARTIES**

6 1. Bon Appetit Management Co. is a California Corporation that at all relevant times
7 mentioned herein conducted and continues to conduct substantial business in California.

8 2. Compass Group USA, Inc. a Corporation that at all relevant times mentioned
9 herein conducted and continues to conduct substantial business in California.

10 3. Bon Appetit Management Co. and Compass Group USA, Inc. are the joint
11 employers of PLAINTIFF as evidenced by paycheck and by the company PLAINTIFF
12 performed work for respectively, and are therefore jointly responsible as employers for the
13 conduct alleged herein, and are therefore collectively referred to herein as (“DEFENDANT”).

14 4. DEFENDANT is an on-site restaurant company, that provides café and catering
15 services to corporations, colleges, and universities.

16 5. PLAINTIFF has been employed by DEFENDANT in since May of 2022.
17 PLAINTIFF has been at all times classified by DEFENDANT as a non-exempt employee, paid
18 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
19 minimum and overtime wages due for all time worked.

20 6. PLAINTIFF brings this Class Action on behalf of herself and a California class,
21 defined as all individuals who are or previously were employed by Bon Appetit Management
22 Co. and/or Compass Group USA, Inc. in California, including any employees staffed with Bon
23 Appetit Management Co. and/or Compass Group USA, Inc. by a third party, and classified as
24 non-exempt employees (the “CALIFORNIA CLASS”) at any time during the period beginning
25 four (4) years prior to the filing of this Complaint and ending on the date as determined by the
26 Court (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for the aggregate
27 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

1 7. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA
2 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred
3 during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice
4 which failed to lawfully compensate these employees. DEFENDANT's policy and practice
5 alleged herein was an unlawful, unfair and deceptive business practice whereby
6 DEFENDANT retained and continues to retain wages due PLAINTIFF and the other
7 members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the
8 CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the
9 future, relief for the named PLAINTIFF and the other members of the CALIFORNIA
10 CLASS who have been economically injured by DEFENDANT's past and current unlawful
11 conduct, and all other appropriate legal and equitable relief.

12 8. The true names and capacities, whether individual, corporate, subsidiary,
13 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are
14 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
15 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
16 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when
17 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
18 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through
19 50, inclusive, are responsible in some manner for one or more of the events and happenings
20 that proximately caused the injuries and damages hereinafter alleged.

21 9. The agents, servants and/or employees of the Defendants and each of them
22 acting on behalf of the Defendants acted within the course and scope of his, her or its
23 authority as the agent, servant and/or employee of the Defendants, and personally
24 participated in the conduct alleged herein on behalf of the Defendants with respect to the
25 conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to
26 the other Defendants and all Defendants are jointly and severally liable to PLAINTIFF and
27 the other members of the CALIFORNIA CLASS, for the loss sustained as a proximate result
28 of the conduct of the Defendants' agents, servants and/or employees.

1
2 **THE CONDUCT**

3 10. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
4 was required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time
5 worked, meaning the time during which an employee is subject to the control of an
6 employer, including all the time the employee is suffered or permitted to work.
7 DEFENDANT requires PLAINTIFF and CALIFORNIA CLASS Members to work without
8 paying them for all the time they are under DEFENDANT's control. Among other things,
9 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to
10 be PLAINTIFF's off-duty meal break. PLAINTIFF was from time to time interrupted by
11 work assignments while clocked out for what should have been PLAINTIFF's off-duty meal
12 break. DEFENDANT, as a matter of established company policy and procedure, administers
13 a uniform practice of rounding the actual time worked and recorded by PLAINTIFF and
14 CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that during the
15 course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid less
16 than they would have been paid had they been paid for actual recorded time rather than
17 "rounded" time. Additionally, DEFENDANT engages in the practice of requiring
18 PLAINTIFF and CALIFORNIA CLASS Members to perform work off the clock in that
19 DEFENDANT, as a condition of employment, required these employees to submit to
20 mandatory temperature checks and symptom questionnaires for COVID-19 screening prior
21 to clocking into DEFENDANT's timekeeping system for the workday. As a result,
22 PLAINTIFF and other CALIFORNIA CLASS Members forfeit minimum wage, overtime
23 wage compensation, and off-duty meal breaks by working without their time being correctly
24 recorded and without compensation at the applicable rates. DEFENDANT's policy and
25 practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time
26 worked, is evidenced by DEFENDANT's business records.

27 11. State and federal law provides that employees must be paid overtime and meal
28 and rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF

1 and other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive
2 pay that is tied to specific elements of an employee's performance.

3 12. The second component of PLAINTIFF's and other CALIFORNIA CLASS
4 Members' compensation is DEFENDANT's non-discretionary incentive program that paid
5 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their
6 performance for DEFENDANT. The non-discretionary incentive program provided all
7 employees paid on an hourly basis with incentive compensation when the employees met the
8 various performance goals set by DEFENDANT. However, when calculating the regular
9 rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and
10 other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
11 compensation as part of the employees' "regular rate of pay" for purposes of calculating
12 overtime pay and meal and rest break premium pay. Management and supervisors described
13 the incentive program to potential and new employees as part of the compensation package.
14 As a matter of law, the incentive compensation received by PLAINTIFF and other
15 CALIFORNIA CLASS Members must be included in the "regular rate of pay." The failure
16 to do so has resulted in a underpayment of overtime compensation and meal and rest break
17 premiums to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.

18 13. As a result of their rigorous work schedules, PLAINTIFF and other
19 CALIFORNIA CLASS Members were from time to time unable to take thirty (30) minute
20 off duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF
21 and other CALIFORNIA CLASS Members were required from time to time to perform
22 work as ordered by DEFENDANT for more than five (5) hours during some shifts without
23 receiving a meal break. Further, DEFENDANT from time to time failed to provide
24 PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period for
25 some workdays in which these employees were required by DEFENDANT to work ten (10)
26 hours of work. DEFENDANT also engaged in the practice of rounding the meal period
27 times to avoid paying penalties to PLAINTIFF and other CALIFORNIA CLASS Members.
28 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks

1 without additional compensation and in accordance with DEFENDANT's corporate policy
2 and practice.

3 14. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other
4 CALIFORNIA CLASS Members were also required from time to time to work in excess of
5 four (4) hours without being provided ten (10) minute rest periods. Further, these employees
6 were denied their first rest periods of at least ten (10) minutes for some shifts worked of at
7 least two (2) to four (4) hours from time to time, a first and second rest period of at least ten
8 (10) minutes for some shifts worked of between six (6) and eight (8) hours from time to
9 time, and a first, second and third rest period of at least ten (10) minutes for some shifts
10 worked of ten (10) hours or more from time to time. PLAINTIFF and other CALIFORNIA
11 CLASS Members were also not provided with one hour wages in lieu thereof. Additionally,
12 the applicable California Wage Order requires employers to provide employees with off-
13 duty rest periods, which the California Supreme Court defined as time during which an
14 employee is relieved from all work related duties and free from employer control. In so
15 doing, the Court held that the requirement under California law that employers authorize and
16 permit all employees to take rest period means that employers must relieve employees of all
17 duties and relinquish control over how employees spend their time which includes control
18 over the locations where employees may take their rest period. Employers cannot impose
19 controls that prohibit an employee from taking a brief walk - five minutes out, five minutes
20 back. Here, DEFENDANT's policy restricted PLAINTIFF and other CALIFORNIA
21 CLASS Members from unconstrained walks and is unlawful based on DEFENDANT's rule
22 which states PLAINTIFF and other CALIFORNIA CLASS Members cannot leave the work
23 premises during their rest period.

24 15. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to
25 accurately record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the
26 actual amount of time these employees worked. Pursuant to the Industrial Welfare
27 Commission Wage Orders, DEFENDANT was required to pay PLAINTIFF and other
28 CALIFORNIA CLASS Members for all time worked, meaning the time during which an

1 employee was subject to the control of an employer, including all the time the employee was
2 permitted or suffered to permit this work. DEFENDANT required these employees to work
3 off the clock without paying them for all the time they were under DEFENDANT's control.
4 As such, DEFENDANT knew or should have known that PLAINTIFF and the other
5 members of the CALIFORNIA CLASS were under compensated for all time worked. As a
6 result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited time worked by
7 working without their time being accurately recorded and without compensation at the
8 applicable minimum wage and overtime wage rates. To the extent that the time worked off
9 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay
10 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
11 1197, and 1197.1.

12 16. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
13 other members of the CALIFORNIA CLASS with complete and accurate wage statements
14 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab.
15 Code § 226 provides that every employer shall furnish each of his or her employees with an
16 accurate itemized wage statement in writing showing, among other things, gross wages
17 earned and all applicable hourly rates in effect during the pay period and the corresponding
18 amount of time worked at each hourly rate. PLAINTIFF and CALIFORNIA CLASS
19 Members were paid on an hourly basis. As such, the wage statements should reflect all
20 applicable hourly rates during the pay period and the total hours worked, and the applicable
21 pay period in which the wages were earned pursuant to California Labor Code Section
22 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other
23 CALIFORNIA CLASS Members failed to identify such information. More specifically, the
24 wage statements failed to identify the accurate total hours worked each pay period. When
25 the hours shown on the wage statements were added up, they did not equal the actual total
26 hours worked during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from
27 the violations listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF
28 an itemized wage statement that lists all the requirements under California Labor Code 226

1 *et seq.* As a result, DEFENDANT from time to time provided PLAINTIFF and the other
2 members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab. Code
3 § 226.

4 17. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
5 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
6 the wages are paid not more than seven (7) calendar days following the close of the payroll
7 period. Cal. Lab. Code § 210 provides:

8 in [I]n addition to, and entirely independent and apart from, any other penalty provided
9 this article, every person who fails to pay the wages of each employee as provided in
10 Sections. . . .204. . . shall be subject to a civil penalty as follows: (1) For any initial
11 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For
each subsequent violation, or any willful or intentional violation, two hundred dollars
(\$200) for each failure to pay each employee, plus 25 percent of the amount
unlawfully withheld.

12 18. DEFENDANT from time to time failed to pay PLAINTIFF and members of
13 the CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the
14 payroll period in accordance with Cal. Lab. Code § 204(d), including but not limited to for
15 the “Hourly” regular wage payments.

16 19. DEFENDANT underpaid sick pay wages to PLAINTIFF and other
17 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay in
18 violation of Cal. Lab. Code Section 246. Specifically, PLAINTIFF and other non-exempt
19 employees earn non-discretionary remuneration. Rather than pay sick pay at the regular rate
20 of pay, DEFENDANT underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS
21 Members at their base rates of pay.

22 20. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
23 employees be calculated by dividing the employee’s total wages, not including overtime
24 premium pay, by the employee’s total hours worked in the full pay periods of the prior 90
25 days of employment.

26 21. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay
27 at the regular rate of pay. PLAINTIFF and CALIFORNIA CLASS Members routinely
28 earned non-discretionary incentive wages which increased their regular rate of pay.

1 However, when sick pay was paid, it was paid at the base rate of pay for PLAINTIFF and
2 members of the CALIFORNIA CLASS, as opposed to the correct, higher regular rate of pay,
3 as required under Cal. Lab. Code Section 246.

4 22. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF
5 and other members of the CALIFORNIA CLASS their correct wages and accordingly owe
6 waiting time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is
7 informed and believes and based thereon alleges that such failure to pay sick pay at regular
8 rate was willful, such that PLAINTIFF and members of the CALIFORNIA CLASS whose
9 employment has separated are entitled to waiting time penalties pursuant to Cal. Lab. Code
10 Sections 201-203.

11 23. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
12 to collect or receive from an employee any part of wages theretofore paid by said employer
13 to said employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and
14 other CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from
15 compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members,
16 failed to disclose all aspects of the deductions from compensation payable to PLAINTIFF
17 and CALIFORNIA LABOR SUB-CLASS Members, and thereby failed to pay these
18 employees all wages due at each applicable pay period and upon termination. PLAINTIFF
19 and members of the CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal
20 deductions from wages according to proof, related penalties, interest, attorney fees and costs.

21 24. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
22 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses
23 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct
24 consequence of discharging their duties on behalf of DEFENDANT. Under California
25 Labor Code Section 2802, employers are required to indemnify employees for all expenses
26 incurred in the course and scope of their employment. Cal. Lab. Code § 2802 expressly
27 states that "an employer shall indemnify his or her employee for all necessary expenditures
28 or losses incurred by the employee in direct consequence of the discharge of his or her

1 duties, or of his or her obedience to the directions of the employer, even though unlawful,
2 unless the employee, at the time of obeying the directions, believed them to be unlawful."

3 25. In the course of their employment PLAINTIFF and other CALIFORNIA
4 CLASS Members as a business expense, were required by DEFENDANT to use their own
5 personal cellular phones as a result of and in furtherance of their job duties as employees for
6 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost
7 associated with the use of their personal cellular phones for DEFENDANT's benefit.
8 Specifically, PLAINTIFF and other CALIFORNIA CLASS Members were required by
9 DEFENDANT to use their personal cellular phones. As a result, in the course of their
10 employment with DEFENDANT, PLAINTIFF and other members of the CALIFORNIA
11 CLASS incurred unreimbursed business expenses which included, but were not limited to,
12 costs related to the use of their personal cellular phones all on behalf of and for the benefit
13 of DEFENDANT.

14 26. In violation of the applicable sections of the California Labor Code and the
15 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,
16 DEFENDANT as a matter of company policy, practice and procedure, intentionally,
17 knowingly and systematically failed to provide PLAINTIFF and the other Aggrieved
18 Employees suitable seating when the nature of these employees' work reasonably permitted
19 sitting.

20 27. DEFENDANT knew or should have known that PLAINTIFF and other
21 Aggrieved Employees were entitled to suitable seating and/or were entitled to sit when it did
22 not interfere with the performance of their duties, and that DEFENDANT did not provide
23 suitable seating and/or did not allow them to sit when it did not interfere with the
24 performance of their duties.

25 28. By reason of this conduct applicable to PLAINTIFF and all Aggrieved
26 Employees, DEFENDANT violated California Labor Code Section 1198 and California
27 Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Wage Order
28 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFF seeks penalties on

1 behalf of PLAINTIFF and other Aggrieved Employees as provided herein. Providing
2 suitable seating is the DEFENDANT's burden. As a result of DEFENDANT's intentional
3 disregard of the obligation to meet this burden, DEFENDANT violated the California Labor
4 Code and regulations promulgated thereunder as herein alleged.

5 29. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally
6 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage
7 Order and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due
8 to PLAINTIFF. DEFENDANT did not have a policy or practice which provided timely off-
9 duty meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for
10 PLAINTIFF's missed meal and rest breaks. The nature of the work performed by the
11 PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's duties
12 for the legally required off-duty meal periods. As a result, DEFENDANT's failure to
13 provide PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's
14 business records. The amount in controversy for PLAINTIFF individually does not exceed
15 the sum or value of \$75,000.

16 **JURISDICTION AND VENUE**

17 30. This Court has jurisdiction over this Action pursuant to California Code of
18 Civil Procedure, Section 410.10 and California Business & Professions Code, Section
19 17203. This action is brought as a Class Action on behalf of PLAINTIFF and similarly
20 situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

21 31. Venue is proper in this Court pursuant to California Code of Civil Procedure,
22 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
23 DEFENDANT (i) currently maintains and at all relevant times maintained offices and
24 facilities in this County and/or conducts substantial business in this County, and (ii)
25 committed the wrongful conduct herein alleged in this County against members of the
26 CALIFORNIA CLASS.
27
28

THE CALIFORNIA CLASS

32. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who are or previously were employed by Bon Appetit Management Co. and/or Compass Group USA, Inc. in California, including any employees staffed with Bon Appetit Management Co. and/or Compass Group USA, Inc. by a third party, and classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the period beginning four (4) years prior to the filing of this Complaint and ending on the date as determined by the Court (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

33. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

34. DEFENDANT, as a matter of company policy, practice and procedure, and in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed to record all meal and rest breaks missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permits or suffers to permit this work.

35. DEFENDANT has the legal burden to establish that each and every CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as required by California laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This common business practice is applicable to each

1 and every CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as
2 unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.*
3 (the “UCL”) as causation, damages, and reliance are not elements of this claim.

4 36. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
5 CLASS Members is impracticable.

6 37. DEFENDANT violated the rights of the CALIFORNIA CLASS under
7 California law by:

- 8 (a) Committing an act of unfair competition in violation of , Cal. Bus. &
9 Prof. Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly
10 and/or deceptively having in place company policies, practices and
11 procedures that failed to record and pay PLAINTIFF and the other
12 members of the CALIFORNIA CLASS for all time worked, including
13 minimum wages owed and overtime wages owed for work performed
14 by these employees; and,
15 (b) Committing an act of unfair competition in violation of the UCL, by
16 failing to provide the PLAINTIFF and the other members of the
17 CALIFORNIA CLASS with the legally required meal and rest periods.

18 38. This Class Action meets the statutory prerequisites for the maintenance of a
19 Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 20 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
21 that the joinder of all such persons is impracticable and the disposition
22 of their claims as a class will benefit the parties and the Court;
23 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief
24 issues that are raised in this Complaint are common to the
25 CALIFORNIA CLASS will apply to every member of the
26 CALIFORNIA CLASS;
27 (c) The claims of the representative PLAINTIFF are typical of the claims
28 of each member of the CALIFORNIA CLASS. PLAINTIFF, like all

1 the other members of the CALIFORNIA CLASS, was classified as a
2 non-exempt employee paid on an hourly basis who was subjected to the
3 DEFENDANT's deceptive practice and policy which failed to provide
4 the legally required meal and rest periods to the CALIFORNIA CLASS
5 and thereby underpaid compensation to PLAINTIFF and
6 CALIFORNIA CLASS. PLAINTIFF sustained economic injury as a
7 result of DEFENDANT's employment practices. PLAINTIFF and the
8 members of the CALIFORNIA CLASS were and are similarly or
9 identically harmed by the same unlawful, deceptive and unfair
10 misconduct engaged in by DEFENDANT; and,

- 11 (d) The representative PLAINTIFF will fairly and adequately represent and
12 protect the interest of the CALIFORNIA CLASS, and has retained
13 counsel who are competent and experienced in Class Action litigation.
14 There are no material conflicts between the claims of the representative
15 PLAINTIFF and the members of the CALIFORNIA CLASS that would
16 make class certification inappropriate. Counsel for the CALIFORNIA
17 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
18 Members.

19 39. In addition to meeting the statutory prerequisites to a Class Action, this action
20 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 21 (a) Without class certification and determination of declaratory, injunctive,
22 statutory and other legal questions within the class format, prosecution
23 of separate actions by individual members of the CALIFORNIA
24 CLASS will create the risk of:

- 25 1) Inconsistent or varying adjudications with respect to individual
26 members of the CALIFORNIA CLASS which would establish
27 incompatible standards of conduct for the parties opposing the
28 CALIFORNIA CLASS; and/or,

1 2) Adjudication with respect to individual members of the
2 CALIFORNIA CLASS which would as a practical matter be
3 dispositive of interests of the other members not party to the
4 adjudication or substantially impair or impede their ability to
5 protect their interests.

6 (b) The parties opposing the CALIFORNIA CLASS have acted or refused
7 to act on grounds generally applicable to the CALIFORNIA CLASS,
8 making appropriate class-wide relief with respect to the CALIFORNIA
9 CLASS as a whole in that DEFENDANT failed to pay all wages due to
10 members of the CALIFORNIA CLASS as required by law;

11 1) With respect to the First Cause of Action, the final relief on
12 behalf of the CALIFORNIA CLASS sought does not relate
13 exclusively to restitution because through this claim
14 PLAINTIFF seeks declaratory relief holding that the
15 DEFENDANT's policy and practices constitute unfair
16 competition, along with declaratory relief, injunctive relief, and
17 incidental equitable relief as may be necessary to prevent and
18 remedy the conduct declared to constitute unfair competition;

19 (c) Common questions of law and fact exist as to the members of the
20 CALIFORNIA CLASS, with respect to the practices and violations of
21 California law as listed above, and predominate over any question
22 affecting only individual CALIFORNIA CLASS Members, and a Class
23 Action is superior to other available methods for the fair and efficient
24 adjudication of the controversy, including consideration of:

25 1) The interests of the members of the CALIFORNIA CLASS in
26 individually controlling the prosecution or defense of separate
27 actions in that the substantial expense of individual actions will
28 be avoided to recover the relatively small amount of economic

1 losses sustained by the individual CALIFORNIA CLASS

2 Members when compared to the substantial expense and burden
3 of individual prosecution of this litigation;

4 2) Class certification will obviate the need for unduly duplicative
5 litigation that would create the risk of:

6 A. Inconsistent or varying adjudications with respect to
7 individual members of the CALIFORNIA CLASS, which
8 would establish incompatible standards of conduct for the
9 DEFENDANT; and/or,

10 B. Adjudications with respect to individual members of the
11 CALIFORNIA CLASS would as a practical matter be
12 dispositive of the interests of the other members not
13 parties to the adjudication or substantially impair or
14 impede their ability to protect their interests;

15 3) In the context of wage litigation because a substantial number of
16 individual CALIFORNIA CLASS Members will avoid asserting
17 their legal rights out of fear of retaliation by DEFENDANT,
18 which may adversely affect an individual's job with
19 DEFENDANT or with a subsequent employer, the Class Action
20 is the only means to assert their claims through a representative;
21 and,

22 4) A class action is superior to other available methods for the fair
23 and efficient adjudication of this litigation because class
24 treatment will obviate the need for unduly and unnecessary
25 duplicative litigation that is likely to result in the absence of
26 certification of this action pursuant to Cal. Code of Civ. Proc. §
27 382.
28

1 40. This Court should permit this action to be maintained as a Class Action
2 pursuant to Cal. Code of Civ. Proc. § 382 because:

- 3 (a) The questions of law and fact common to the CALIFORNIA CLASS
4 predominate over any question affecting only individual CALIFORNIA
5 CLASS Members because the DEFENDANT's employment practices
6 are applied with respect to the CALIFORNIA CLASS;
- 7 (b) A Class Action is superior to any other available method for the fair
8 and efficient adjudication of the claims of the members of the
9 CALIFORNIA CLASS because in the context of employment litigation
10 a substantial number of individual CALIFORNIA CLASS Members
11 will avoid asserting their rights individually out of fear of retaliation or
12 adverse impact on their employment;
- 13 (c) The members of the CALIFORNIA CLASS are so numerous that it is
14 impractical to bring all members of the CALIFORNIA CLASS before
15 the Court;
- 16 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not
17 be able to obtain effective and economic legal redress unless the action
18 is maintained as a Class Action;
- 19 (e) There is a community of interest in obtaining appropriate legal and
20 equitable relief for the acts of unfair competition, statutory violations
21 and other improprieties, and in obtaining adequate compensation for
22 the damages and injuries which DEFENDANT's actions have inflicted
23 upon the CALIFORNIA CLASS;
- 24 (f) There is a community of interest in ensuring that the combined assets of
25 DEFENDANT are sufficient to adequately compensate the members of
26 the CALIFORNIA CLASS for the injuries sustained;
- 27 (g) DEFENDANT has acted or refused to act on grounds generally
28 applicable to the CALIFORNIA CLASS, thereby making final class-

1 wide relief appropriate with respect to the CALIFORNIA CLASS as a
2 whole;

3 (h) The members of the CALIFORNIA CLASS are readily ascertainable
4 from the business records of DEFENDANT; and,

5 (i) Class treatment provides manageable judicial treatment calculated to
6 bring a efficient and rapid conclusion to all litigation of all wage and
7 hour related claims arising out of the conduct of DEFENDANT as to
8 the members of the CALIFORNIA CLASS.

9 41. DEFENDANT maintains records from which the Court can ascertain and
10 identify by job title each of DEFENDANT's employees who have been intentionally
11 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.
12 PLAINTIFF will seek leave to amend the Complaint to include any additional job titles of
13 similarly situated employees when they have been identified.

14
15 **THE CALIFORNIA LABOR SUB-CLASS**

16 42. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh,
17 Eighth and Ninth causes Action on behalf of a California sub-class, defined as all members
18 of the CALIFORNIA CLASS who are or previously were employed by Bon Appetit
19 Management Co. and/or Compass Group USA, Inc. in California, including any employees
20 staffed with Bon Appetit Management Co. and/or Compass Group USA, Inc. by a third
21 party, and classified as non-exempt employees (the "CALIFORNIA LABOR SUB-
22 CLASS") at any time during the period three (3) years prior to the filing of the complaint
23 and ending on the date as determined by the Court (the "CALIFORNIA LABOR SUB-
24 CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy
25 for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five
26 million dollars (\$5,000,000.00).

27 43. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
28 Commission ("IWC") Wage Order requirements, and the applicable provisions of California

1 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT
2 failed to correctly calculate compensation for the time worked by PLAINTIFF and the other
3 members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to
4 these employees, even though DEFENDANT enjoyed the benefit of this work, required
5 employees to perform this work and permitted or suffered to permit this work.
6 DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members wages to
7 which these employees are entitled in order to unfairly cheat the competition and unlawfully
8 profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR
9 SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD
10 should be adjusted accordingly.

11 44. DEFENDANT maintains records from which the Court can ascertain and
12 identify by name and job title, each of DEFENDANT's employees who have been
13 intentionally subjected to DEFENDANT's company policy, practices and procedures as
14 herein alleged. PLAINTIFF will seek leave to amend the complaint to include any
15 additional job titles of similarly situated employees when they have been identified.

16 45. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
17 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

18 46. Common questions of law and fact exist as to members of the CALIFORNIA
19 LABOR SUB-CLASS, including, but not limited, to the following:

- 20 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
21 compensation due to members of the CALIFORNIA LABOR SUB-
22 CLASS for missed meal and rest breaks in violation of the California
23 Labor Code and California regulations and the applicable California
24 Wage Order;
- 25 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
26 members of the CALIFORNIA LABOR SUB-CLASS with accurate
27 itemized wage statements;
28

- 1 (c) Whether DEFENDANT has engaged in unfair competition by the
2 above-listed conduct;
- 3 (d) The proper measure of damages and penalties owed to the members of
4 the CALIFORNIA LABOR SUB-CLASS; and,
- 5 (e) Whether DEFENDANT's conduct was willful.

6 47. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-
7 CLASS under California law by:

- 8 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the
9 PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
10 CLASS all wages due for overtime worked, for which DEFENDANT is
11 liable pursuant to Cal. Lab. Code § 1194;
- 12 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
13 accurately pay PLAINTIFF and the members of the CALIFORNIA
14 LABOR SUB-CLASS the correct minimum wage pay for which
15 DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 16 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and
17 the members of the CALIFORNIA LABOR SUB-CLASS with an
18 accurate itemized statement in writing showing the corresponding
19 correct amount of wages earned by the employee;
- 20 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
21 PLAINTIFF and the other members of the CALIFORNIA LABOR
22 SUB-CLASS with all legally required off-duty, uninterrupted thirty
23 (30) minute meal breaks and the legally required off-duty rest breaks;
- 24 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that
25 when an employee is discharged or quits from employment, the
26 employer must pay the employee all wages due without abatement, by
27 failing to tender full payment and/or restitution of wages owed or in the
28 manner required by California law to the members of the

CALIFORNIA LABOR SUB-CLASS who have terminated their employment; and,

- (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members with necessary expenses incurred in the discharge of their job duties.

48. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS and will apply to every member of the CALIFORNIA LABOR SUB-CLASS;
- (c) The claims of the representative PLAINTIFF are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee paid on an hourly basis who was subjected to the DEFENDANT's practice and policy which failed to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANT's employment practices. PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically harmed by the same unlawful, deceptive, and unfair misconduct engaged in by DEFENDANT; and,
- (d) The representative PLAINTIFF will fairly and adequately represent and protect the interest of the CALIFORNIA LABOR SUB-CLASS, and

1 has retained counsel who are competent and experienced in Class
2 Action litigation. There are no material conflicts between the claims of
3 the representative PLAINTIFF and the members of the CALIFORNIA
4 LABOR SUB-CLASS that would make class certification
5 inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS
6 will vigorously assert the claims of all CALIFORNIA LABOR SUB-
7 CLASS Members.

8 49. In addition to meeting the statutory prerequisites to a Class Action, this action
9 is properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

10 (a) Without class certification and determination of declaratory, injunctive,
11 statutory and other legal questions within the class format, prosecution
12 of separate actions by individual members of the CALIFORNIA
13 LABOR SUB-CLASS will create the risk of:

- 14 1) Inconsistent or varying adjudications with respect to individual
15 members of the CALIFORNIA LABOR SUB-CLASS which
16 would establish incompatible standards of conduct for the
17 parties opposing the CALIFORNIA LABOR SUB-CLASS; or,
18 2) Adjudication with respect to individual members of the
19 CALIFORNIA LABOR SUB-CLASS which would as a
20 practical matter be dispositive of interests of the other members
21 not party to the adjudication or substantially impair or impede
22 their ability to protect their interests.

23 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have
24 acted or refused to act on grounds generally applicable to the
25 CALIFORNIA LABOR SUB-CLASS, making appropriate class-wide
26 relief with respect to the CALIFORNIA LABOR SUB-CLASS as a
27 whole in that DEFENDANT fails to pay all wages due. Including the
28

1 correct wages for all time worked by the members of the
2 CALIFORNIA LABOR SUB-CLASS as required by law;

3 (c) Common questions of law and fact predominate as to the members of
4 the CALIFORNIA LABOR SUB-CLASS, with respect to the practices
5 and violations of California Law as listed above, and predominate over
6 any question affecting only individual CALIFORNIA LABOR SUB-
7 CLASS Members, and a Class Action is superior to other available
8 methods for the fair and efficient adjudication of the controversy,
9 including consideration of:

- 10 1) The interests of the members of the CALIFORNIA LABOR
11 SUB-CLASS in individually controlling the prosecution or
12 defense of separate actions in that the substantial expense of
13 individual actions will be avoided to recover the relatively small
14 amount of economic losses sustained by the individual
15 CALIFORNIA LABOR SUB-CLASS Members when compared
16 to the substantial expense and burden of individual prosecution
17 of this litigation;
- 18 2) Class certification will obviate the need for unduly duplicative
19 litigation that would create the risk of:
 - 20 A. Inconsistent or varying adjudications with respect to
21 individual members of the CALIFORNIA LABOR SUB-
22 CLASS, which would establish incompatible standards of
23 conduct for the DEFENDANT; and/or,
 - 24 B. Adjudications with respect to individual members of the
25 CALIFORNIA LABOR SUB-CLASS would as a
26 practical matter be dispositive of the interests of the other
27 members not parties to the adjudication or substantially
28 impair or impede their ability to protect their interests;

- 1 3) In the context of wage litigation because a substantial number of
2 individual CALIFORNIA LABOR SUB-CLASS Members will
3 avoid asserting their legal rights out of fear of retaliation by
4 DEFENDANT, which may adversely affect an individual's job
5 with DEFENDANT or with a subsequent employer, the Class
6 Action is the only means to assert their claims through a
7 representative; and,
- 8 4) A class action is superior to other available methods for the fair
9 and efficient adjudication of this litigation because class
10 treatment will obviate the need for unduly and unnecessary
11 duplicative litigation that is likely to result in the absence of
12 certification of this action pursuant to Cal. Code of Civ. Proc. §
13 382.

14 50. This Court should permit this action to be maintained as a Class Action
15 pursuant to Cal. Code of Civ. Proc. § 382 because:

- 16 (a) The questions of law and fact common to the CALIFORNIA LABOR
17 SUB-CLASS predominate over any question affecting only individual
18 CALIFORNIA LABOR SUB-CLASS Members;
- 19 (b) A Class Action is superior to any other available method for the fair
20 and efficient adjudication of the claims of the members of the
21 CALIFORNIA LABOR SUB-CLASS because in the context of
22 employment litigation a substantial number of individual
23 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting
24 their rights individually out of fear of retaliation or adverse impact on
25 their employment;
- 26 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so
27 numerous that it is impractical to bring all members of the
28 CALIFORNIA LABOR SUB-CLASS before the Court;

- 1 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS
2 Members, will not be able to obtain effective and economic legal
3 redress unless the action is maintained as a Class Action;
- 4 (e) There is a community of interest in obtaining appropriate legal and
5 equitable relief for the acts of unfair competition, statutory violations
6 and other improprieties, and in obtaining adequate compensation for
7 the damages and injuries which DEFENDANT's actions have inflicted
8 upon the CALIFORNIA LABOR SUB-CLASS;
- 9 (f) There is a community of interest in ensuring that the combined assets of
10 DEFENDANT are sufficient to adequately compensate the members of
11 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 12 (g) DEFENDANT has acted or refused to act on grounds generally
13 applicable to the CALIFORNIA LABOR SUB-CLASS, thereby
14 making final class-wide relief appropriate with respect to the
15 CALIFORNIA LABOR SUB-CLASS as a whole;
- 16 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
17 ascertainable from the business records of DEFENDANT. The
18 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
19 CLASS Members who worked for DEFENDANT in California at any
20 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- 21 (i) Class treatment provides manageable judicial treatment calculated to
22 bring a efficient and rapid conclusion to all litigation of all wage and
23 hour related claims arising out of the conduct of DEFENDANT as to
24 the members of the CALIFORNIA LABOR SUB-CLASS.

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1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

3 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

4 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

5 51. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege
6 and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
7 this Complaint.

8 52. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
9 Code § 17021.

10 53. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”)
11 defines unfair competition as any unlawful, unfair, or fraudulent business act or practice.
12 Section 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to
13 unfair competition as follows:

14 Any person who engages, has engaged, or proposes to engage in unfair
15 competition may be enjoined in any court of competent jurisdiction. The court
16 may make such orders or judgments, including the appointment of a receiver,
17 as may be necessary to prevent the use or employment by any person of any
18 practice which constitutes unfair competition, as defined in this chapter, or as
19 may be necessary to restore to any person in interest any money or property,
20 real or personal, which may have been acquired by means of such unfair
21 competition.

22 Cal. Bus. & Prof. Code § 17203.

23 54. By the conduct alleged herein, DEFENDANT has engaged and continues to
24 engage in a business practice which violates California law, including but not limited to, the
25 applicable Industrial Wage Order(s), the California Code of Regulations and the California
26 Labor Code including Sections 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1,
27 1198, 2802 and the Fair Labor Standards Act and federal regulations promulgated
28 thereunder, for which this Court should issue declaratory and other equitable relief pursuant
to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct
held to constitute unfair competition, including restitution of wages wrongfully withheld.

1 55. By the conduct alleged herein, DEFENDANT's practices were unlawful and
2 unfair in that these practices violate public policy, were immoral, unethical, oppressive,
3 unscrupulous or substantially injurious to employees, and were without valid justification or
4 utility for which this Court should issue equitable and injunctive relief pursuant to Section
5 17203 of the California Business & Professions Code, including restitution of wages
6 wrongfully withheld.

7 56. By the conduct alleged herein, DEFENDANT's practices were deceptive and
8 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated
9 meal and rest periods, the required amount of compensation for missed meal and rest
10 periods and overtime and minimum wages owed, failed to timely pay wages, and failed to
11 reimburse all necessary business expenses incurred, and failed to provide Fair Labor
12 Standards Act overtime wages due for overtime worked as a result of failing to include non-
13 discretionary incentive compensation into their regular rates of pay for purposes of
14 computing the proper overtime pay due to a business practice that cannot be justified,
15 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements
16 in violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue
17 injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including
18 restitution of wages wrongfully withheld.

19 57. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
20 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and
21 the other members of the CALIFORNIA CLASS to be underpaid during their employment
22 with DEFENDANT.

23 58. By the conduct alleged herein, DEFENDANT's practices were also unlawful,
24 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to
25 provide all legally required meal breaks to PLAINTIFF and the other members of the
26 CALIFORNIA CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

27 59. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each
28 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty

1 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of
2 pay for each workday in which a second off-duty meal period was not timely provided for
3 each ten (10) hours of work.

4 60. PLAINTIFF further demands on behalf of herself and each member of the
5 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off
6 duty paid rest period was not timely provided as required by law.

7 61. By and through the unlawful and unfair business practices described herein,
8 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and
9 the other members of the CALIFORNIA CLASS, including earned wages for all time
10 worked, and has deprived them of valuable rights and benefits guaranteed by law and
11 contract, all to the detriment of these employees and to the benefit of DEFENDANT so as to
12 allow DEFENDANT to unfairly compete against competitors who comply with the law.

13 62. All the acts described herein as violations of, among other things, the
14 Industrial Welfare Commission Wage Orders, the California Code of Regulations, and the
15 California Labor Code, were unlawful and in violation of public policy, were immoral,
16 unethical, oppressive and unscrupulous, were deceptive, and thereby constitute unlawful,
17 unfair and deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et*
18 *seq.*

19 63. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled
20 to, and do, seek such relief as may be necessary to restore to them the money and property
21 which DEFENDANT has acquired, or of which PLAINTIFF and the other members of the
22 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and
23 unfair business practices, including earned but unpaid wages for all time worked.

24 64. PLAINTIFF and the other members of the CALIFORNIA CLASS are further
25 entitled to, and do, seek a declaration that the described business practices are unlawful,
26 unfair and deceptive, and that injunctive relief should be issued restraining DEFENDANT
27 from engaging in any unlawful and unfair business practices in the future.

65. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain, speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the other members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic harm unless DEFENDANT is restrained from continuing to engage in these unlawful and unfair business practices.

SECOND CAUSE OF ACTION

For Failure To Pay Minimum Wages

[Cal. Lab. Code §§ 1194, 1197 and 1197.1]

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS

and Against All Defendants)

66. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

67. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS Members.

68. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public policy, an employer must timely pay its employees for all hours worked.

69. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

1 70. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid
2 wages, including minimum wage compensation and interest thereon, together with the costs
3 of suit.

4 71. DEFENDANT maintained a wage practice of paying PLAINTIFF and the
5 other members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct
6 amount of time they work. As set forth herein, DEFENDANT's policy and practice was to
7 unlawfully and intentionally deny timely payment of wages due to PLAINTIFF and the
8 other members of the CALIFORNIA LABOR SUB-CLASS.

9 72. DEFENDANT's unlawful wage and hour practices manifested, without
10 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
11 implementing a policy and practice that denies accurate compensation to PLAINTIFF and
12 the other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum
13 wage pay.

14 73. In committing these violations of the California Labor Code, DEFENDANT
15 inaccurately calculated the correct time worked and consequently underpaid the actual time
16 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.
17 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and
18 other benefits in violation of the California Labor Code, the Industrial Welfare Commission
19 requirements and other applicable laws and regulations.

20 74. As a direct result of DEFENDANT's unlawful wage practices as alleged
21 herein, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did
22 not receive the correct minimum wage compensation for their time worked for
23 DEFENDANT.

24 75. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT
25 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
26 Members to work without paying them for all the time they were under DEFENDANT's
27 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
28

1 other members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked
2 that they were entitled to, constituting a failure to pay all earned wages.

3 76. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
4 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
5 CLASS for the true time they worked, PLAINTIFF and the other members of the
6 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an
7 economic injury in amounts which are presently unknown to them and which will be
8 ascertained according to proof at trial.

9 77. DEFENDANT knew or should have known that PLAINTIFF and the other
10 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their
11 time worked. DEFENDANT elected, either through intentional malfeasance or gross
12 nonfeasance, to not pay employees for their labor as a matter of company policy, practice
13 and procedure, and DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF
14 and the other members of the CALIFORNIA LABOR SUB-CLASS the correct minimum
15 wages for their time worked.

16 78. In performing the acts and practices herein alleged in violation of California
17 labor laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-
18 CLASS for all time worked and provide them with the requisite compensation,
19 DEFENDANT acted and continues to act intentionally, oppressively, and maliciously
20 toward PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
21 with a conscious and utter disregard for their legal rights, or the consequences to them, and
22 with the despicable intent of depriving them of their property and legal rights, and otherwise
23 causing them injury in order to increase company profits at the expense of these employees.

24 79. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
25 CLASS therefore request recovery of all unpaid wages, according to proof, interest,
26 statutory costs, as well as the assessment of any statutory penalties against DEFENDANT,
27 in a sum as provided by the California Labor Code and/or other applicable statutes. To the
28 extent minimum wage compensation is determined to be owed to the CALIFORNIA

1 LABOR SUB-CLASS Members who have terminated their employment, DEFENDANT's
2 conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also
3 be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought
4 herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's
5 conduct as alleged herein was willful, intentional and not in good faith. Further,
6 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek
7 and recover statutory costs.

8
9 **THIRD CAUSE OF ACTION**

10 **For Failure To Pay Overtime Compensation**

11 **[Cal. Lab. Code § 510]**

12 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
13 **Defendants)**

14 80. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
15 CLASS, reallege and incorporate by this reference, as though full set forth herein, the prior
16 paragraphs of this Complaint.

17 81. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
18 CLASS bring a claim for DEFENDANT's willful and intentional violations of the
19 California Labor Code and the Industrial Welfare Commission requirements for
20 DEFENDANT's failure to pay these employees for all overtime worked, including, work
21 performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a workday,
22 and/or forty (40) hours in any workweek.

23 82. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
24 public policy, an employer must timely pay its employees for all hours worked.

25 83. Cal. Lab. Code § 510 further provides that employees in California shall not
26 be employed more than eight (8) hours per workday and more than forty (40) hours per
27 workweek unless they receive additional compensation beyond their regular wages in
28 amounts specified by law.

1 84. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid
2 wages, including minimum wage and overtime compensation and interest thereon, together
3 with the costs of suit. Cal. Lab. Code § 1198 further states that the employment of an
4 employee for longer hours than those fixed by the Industrial Welfare Commission is
5 unlawful.

6 85. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
7 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
8 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,
9 including overtime work.

10 86. DEFENDANT's unlawful wage and hour practices manifested, without
11 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
12 implementing a policy and practice that failed to accurately record overtime worked by
13 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and denied accurate
14 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
15 CLASS for overtime worked, including, the overtime work performed in excess of eight (8)
16 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any
17 workweek.

18 87. In committing these violations of the California Labor Code, DEFENDANT
19 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
20 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT
21 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in
22 violation of the California Labor Code, the Industrial Welfare Commission requirements
23 and other applicable laws and regulations. As a direct result of DEFENDANT's unlawful
24 wage practices as alleged herein, the PLAINTIFF and the other members of the
25 CALIFORNIA LABOR SUB-CLASS did not receive full compensation for overtime
26 worked.

27 88. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
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1 from the overtime requirements of the law. None of these exemptions are applicable to the
2 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
3 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not
4 subject to a valid collective bargaining agreement that would preclude the causes of action
5 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of
6 herself and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations
7 of non-negotiable, non-waiveable rights provided by the State of California.

8 89. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
9 the other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for
10 overtime worked that they are entitled to, constituting a failure to pay all earned wages..

11 90. DEFENDANT failed to accurately pay the PLAINTIFF and the other
12 members of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they
13 worked which was in excess of the maximum hours permissible by law as required by Cal.
14 Lab. Code §§ 510, 1194 & 1198, even though PLAINTIFF and the other members of the
15 CALIFORNIA LABOR SUB-CLASS were required to work, and did in fact work, overtime
16 as to which DEFENDANT failed to accurately record and pay as evidenced by
17 DEFENDANT's business records and witnessed by employees.

18 91. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
19 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
20 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the
21 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an
22 economic injury in amounts which are presently unknown to them and which will be
23 ascertained according to proof at trial.

24 92. DEFENDANT knew or should have known that PLAINTIFF and the other
25 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all
26 overtime worked. DEFENDANT elected, either through intentional malfeasance or gross
27 nonfeasance, to not pay employees for their labor as a matter of company policy, practice
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1 and procedure, and DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF
2 and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

3 93. In performing the acts and practices herein alleged in violation of California
4 labor laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-
5 CLASS for all overtime worked and provide them with the requisite overtime compensation,
6 DEFENDANT acted and continues to act intentionally, oppressively, and maliciously
7 toward PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
8 with a conscious of and utter disregard for their legal rights, or the consequences to them,
9 and with the despicable intent of depriving them of their property and legal rights, and
10 otherwise causing them injury in order to increase company profits at the expense of these
11 employees.

12 94. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
13 CLASS therefore request recovery of all overtime wages, according to proof, interest,
14 statutory costs, as well as the assessment of any statutory penalties against DEFENDANT,
15 in a sum as provided by the California Labor Code and/or other applicable statutes. To the
16 extent minimum and/or overtime compensation is determined to be owed to the
17 CALIFORNIA LABOR SUB-CLASS Members who have terminated their employment,
18 DEFENDANT's conduct also violates Labor Code §§ 201 and/or 202, and therefore these
19 individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which
20 penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS
21 Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in
22 good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members
23 are entitled to seek and recover statutory costs.

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1 **FOURTH CAUSE OF ACTION**

2 **For Failure to Provide Required Meal Periods**

3 **[Cal. Lab. Code §§ 226.7 & 512]**

4 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
5 **Defendants)**

6 95. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
7 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
8 paragraphs of this Complaint.

9 96. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time
10 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other
11 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order
12 and Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA
13 LABOR SUB-CLASS MEMBERS did not prevent these employees from being relieved of
14 all of their duties for the legally required off-duty meal periods. As a result of their rigorous
15 work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members
16 were from time to time not fully relieved of duty by DEFENDANT for their meal periods.
17 Additionally, DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA
18 LABOR SUB-CLASS Members with legally required meal breaks prior to their fifth (5th)
19 hour of work is evidenced by DEFENDANT's business records from time to time. Further,
20 DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a
21 second off-duty meal period in some workdays in which these employees were required by
22 DEFENDANT to work ten (10) hours of work from time to time. As a result, PLAINTIFF
23 and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal
24 breaks without additional compensation and in accordance with DEFENDANT's strict
25 corporate policy and practice.

26 97. DEFENDANT further violates California Labor Code §§ 226.7 and the
27 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA
28 LABOR SUB-CLASS Members who were not provided a meal period, in accordance with

1 the applicable Wage Order, one additional hour of compensation at each employee's regular
2 rate of pay for each workday that a meal period was not provided.

3 98. As a proximate result of the aforementioned violations, PLAINTIFF and
4 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
5 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
6 suit.

7 **FIFTH CAUSE OF ACTION**

8 **For Failure to Provide Required Rest Periods**

9 **[Cal. Lab. Code §§ 226.7 & 512]**

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
11 **Defendants)**

12 99. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
14 paragraphs of this Complaint.

15 100. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were
16 from time to time required to work in excess of four (4) hours without being provided ten
17 (10) minute rest periods. Further, these employees from time to time were denied their first
18 rest periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4)
19 hours, a first and second rest period of at least ten (10) minutes for some shifts worked of
20 between six (6) and eight (8) hours, and a first, second and third rest period of at least ten
21 (10) minutes for some shifts worked of ten (10) hours or more from time to time.

22 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were also not
23 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
24 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were periodically
25 denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

26 101. DEFENDANT further violated California Labor Code §§ 226.7 and the
27 applicable IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA
28 LABOR SUB-CLASS Members who were not provided a rest period, in accordance with

1 the applicable Wage Order, one additional hour of compensation at each employee's regular
2 rate of pay for each workday that rest period was not provided.

3 102. As a proximate result of the aforementioned violations, PLAINTIFF and
4 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
5 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
6 suit.

7 **SIXTH CAUSE OF ACTION**

8 **For Failure to Provide Accurate Itemized Statements**

9 **[Cal. Lab. Code § 226]**

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
11 **Defendants)**

12 103. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
14 paragraphs of this Complaint.

15 104. Cal. Labor Code § 226 provides that an employer must furnish employees with
16 an "accurate itemized" statement in writing showing:

- 17 (1) gross wages earned,
- 18 (2) total hours worked by the employee, except for any employee whose
19 compensation is solely based on a salary and who is exempt from payment of
20 overtime under subdivision (a) of Section 515 or any applicable order of the
21 Industrial Welfare Commission,
- 22 (3) the number of piece-rate units earned and any applicable piece rate if the employee
23 is paid on a piece-rate basis,
- 24 (4) all deductions, provided that all deductions made on written orders of the
25 employee may be aggregated and shown as one item,
- 26 (5) net wages earned,
- 27 (6) the inclusive dates of the period for which the employee is paid,
- 28 (7) the name of the employee and his or her social security number, except that by
January 1, 2008, only the last four digits of his or her social security number or an
employee identification number other than a social security number may be shown on
the itemized statement,
- (8) the name and address of the legal entity that is the employer, and
- (9) all applicable hourly rates in effect during the pay period and the corresponding
number of hours worked at each hourly rate by the employee.

105. From time to time, DEFENDANT also failed to provide PLAINTIFF and the
other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate

1 wage statements which failed to show, among other things, the correct gross and net wages
2 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
3 employees with an accurate itemized wage statement in writing showing, among other
4 things, gross wages earned and all applicable hourly rates in effect during the pay period and
5 the corresponding amount of time worked at each hourly rate. PLAINTIFF and
6 CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As such, the
7 wage statements should reflect all applicable hourly rates during the pay period and the total
8 hours worked, and the applicable pay period in which the wages were earned pursuant to
9 California Labor Code Section 226(a). The wage statements DEFENDANT provided to
10 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members failed to identify
11 such information. More specifically, the wage statements failed to identify the accurate total
12 hours worked each pay period. When the hours shown on the wage statements were added
13 up, they did not equal the actual total hours worked during the pay period in violation of Cal.
14 Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph,
15 DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the
16 requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time
17 to time provided PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-
18 CLASS with wage statements which violated Cal. Lab. Code § 226.

19 106. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.
20 Code § 226, causing injury and damages to PLAINTIFF and the other members of the
21 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs
22 expended calculating the correct wages for all missed meal and rest breaks and the amount
23 of employment taxes which were not properly paid to state and federal tax authorities.
24 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of
25 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty
26 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred
27 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §
28 226, in an amount according to proof at the time of trial (but in no event more than four

1 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the
2 CALIFORNIA LABOR SUB-CLASS herein).

3
4 **SEVENTH CAUSE OF ACTION**

5 **For Failure to Reimburse Employees for Required Expenses**

6 **[Cal. Lab. Code § 2802]**

7 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**
8 **Defendants)**

9 107. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members
10 reallege and incorporate by this reference, as though fully set forth herein, the prior
11 paragraphs of this Complaint.

12 108. Cal. Lab. Code § 2802 provides, in relevant part, that:

13 An employer shall indemnify his or her employee for all necessary
14 expenditures or losses incurred by the employee in direct consequence of the
15 discharge of his or her duties, or of his or her obedience to the directions of
the employer, even though unlawful, unless the employee, at the time of
obeying the directions, believed them to be unlawful.

16 109. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,
17 by failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-
18 CLASS members for required expenses incurred in the discharge of their job duties for
19 DEFENDANT's benefit. DEFENDANT failed to reimburse PLAINTIFF and the
20 CALIFORNIA LABOR SUB-CLASS members for expenses which included, but were not
21 limited to, costs related to using their personal cellular phones on behalf of and for the
22 benefit of DEFENDANT. Specifically, PLAINTIFF and other CALIFORNIA LABOR
23 SUB-CLASS Members were required by DEFENDANT to use their personal cellular
24 phones and home offices in order to perform work related job tasks. DEFENDANT's policy
25 and practice was to not reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-
26 CLASS members for expenses resulting from using their personal cellular phones and home
27 offices for DEFENDANT within the course and scope of their employment for
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1 DEFENDANT. These expenses were necessary to complete their principal job duties.
2 DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this
3 expectation. Although these expenses were necessary expenses incurred by PLAINTIFF
4 and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify
5 and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for
6 these expenses as an employer is required to do under the laws and regulations of California.

7 110. PLAINTIFF therefore demands reimbursement for expenditures or losses
8 incurred by herself and the CALIFORNIA LABOR SUB-CLASS members in the discharge
9 of their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,
10 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

11 **EIGHTH CAUSE OF ACTION**

12 **For Failure to Pay Sick Pay Wages**

13 **[Cal. Lab. Code §§ 201-204, 210, 233, 246]**

14 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**
15 **and Against All Defendants)**

16 111. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
17 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior
18 paragraphs of this Complaint.

19 112. Cal Lab. Code § 233 provides that an employer must permit an employee to
20 use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then
21 current rate of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to
22 sick pay wages for use of accrued sick leave pursuant to Cal Lab. Code § 246.5.
23 Specifically, once accrued sick leave is used as paid sick time, an employee has a vested
24 right to sick pay wages, which an employer must calculate and compensate based on one of
25 two calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the
26 same manner as the regular rate of pay for the workweek in which the employee uses paid
27 sick time, whether or not the employee actually works overtime in that workweek," or (ii)
28 "Paid sick time for nonexempt employees shall be calculated by dividing the employee's

1 total wages, not including overtime premium pay, by the employee's total hours worked in
2 the full pay periods of the prior 90 days of employment." Under Cal Lab. Code §§ 218 and
3 233, employees may sue to recover underpaid sick pay wages as damages.

4 113. As a matter of policy and practice, DEFENDANT pays sick pay wages to
5 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS at the
6 incorrect rate of pay. PLAINTIFF and the other members of the CALIFORNIA LABOR-
7 SUB-CLASS regularly use accrued sick leave in the workweeks in which they also earn
8 non-hourly remuneration. As a matter of policy and practice, DEFENDANT pays sick pay
9 wages to PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS
10 at the base hourly pay, as opposed to the regular rate of pay, which would consider all non-
11 hourly remuneration in addition to base hourly wages, or the rate resulting from dividing the
12 employee's total wages, not including overtime premium pay, by the employee's total hours
13 worked in the full pay periods of the prior 90 days of employment. As a result,
14 DEFENDANT underpaid sick pay wages to PLAINTIFF and the other members of the
15 CALIFORNIA LABOR-SUB-CLASS.

16 114. Cal. Lab. Code § 204 provides that wages generally are due and payable twice
17 during each calendar month and are to be paid no later than the payday for the next regular
18 payroll period. Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically
19 requires that, upon use of accrued sick leave, vested sick pay wages are due and to be paid
20 no later than the payday for the next regular payroll period after accrued sick leave is used as
21 paid sick time. Similarly, Cal. Lab. Code § 201 provides that if an employer discharges an
22 employee, wages earned and unpaid at the time of discharge are due and payable
23 immediately. Cal. Lab. Code § 202 provides that an employee is entitled to receive all
24 unpaid wages no later than 72 hours after an employee quits his or her employment, unless
25 the employee has given 72-hour notice of his or her intention to quit, in which case the
26 employee is entitled to his or her wages at the time of quitting. The Labor Code penalizes
27 untimely payments. For example, Cal. Lab. Code § 203 provides that if an employer
28 willfully fails to pay wages owed in accordance with Cal. Lab. Code §§ 201-202, then the

1 wages of the employee shall continue as a penalty from the due date, and at the same rate
2 until paid, but the wages shall not continue for more than thirty (30) days. Likewise, Cal.
3 Lab. Code § 210 provides penalties for violations of Cal. Lab. Code § 204 and untimely
4 payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218, employees may
5 sue to recover applicable penalties.

6 115. As alleged herein and as a matter of policy and practice, DEFENDANT
7 routinely underpays sick pay wages and thus did not timely pay PLAINTIFF and the other
8 members of the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay
9 wages. As a result, DEFENDANT violates Cal. Lab. Code §§ 201-204, 210, 233, and 246,
10 among other Labor Code provisions. PLAINTIFF is informed and believes that
11 DEFENDANT was advised by skilled lawyers and knew, or should have known, of the
12 mandates of the Labor Code as it relates to PLAINTIFF's allegations, especially since the
13 California Supreme Court has explained that "[c]ourts have recognized that 'wages' also
14 include those benefits to which an employee is entitled as a part of his or her compensation,
15 including money, room, board, clothing, vacation pay, and sick pay." *Murphy v. Kenneth*
16 *Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added). Because DEFENDANT
17 willfully fails to timely pay PLAINTIFF and the other members of the CALIFORNIA
18 LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to applicable
19 penalties.

20 116. Such a pattern, practice, and uniform administration of corporate policy is
21 unlawful and entitles PLAINTIFF and the other members of the CALIFORNIA LABOR-
22 SUB-CLASS to underpaid sick pay wages, including interest thereon, applicable penalties,
23 attorney's fees, and costs of suit.

24 25 **PRAYER FOR RELIEF**

26 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
27 severally, as follows:

28 1. On behalf of the CALIFORNIA CLASS:

- 1 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA
2 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
3 B) An order temporarily, preliminarily and permanently enjoining and restraining
4 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
5 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully
6 withheld from compensation due to PLAINTIFF and the other members of the
7 CALIFORNIA CLASS; and,
8 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
9 for restitution of the sums incidental to DEFENDANT's violations due to
10 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

11 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 12 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth
13 and Ninth Causes of Action asserted by the CALIFORNIA LABOR SUB-
14 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
15 B) Compensatory damages, according to proof at trial, including compensatory
16 damages for minimum and overtime compensation due PLAINTIFF and the other
17 members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
18 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
19 statutory rate;
20 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
21 in which a violation occurs and one hundred dollars (\$100) per each member of
22 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
23 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
24 an award of costs for violation of Cal. Lab. Code § 226;
25 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
26 the applicable IWC Wage Order;
27 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
28 1197;

1 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
2 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and
3 costs of suit.; and,

4 G) The wages of all terminated employees in the CALIFORNIA LABOR
5 SUB-CLASS as a penalty from the due date thereof at the same rate until paid or
6 until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

7 3. On all claims:

8 A) An award of interest, including prejudgment interest at the legal rate;

9 B) Such other and further relief as the Court deems just and equitable; and,

10 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the
11 law, including, but not limited to, pursuant to Labor Code §221, §226, §1194,
12 and/or §2802.

13 Dated: May 15, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

16 By: _____

17 Norman B. Blumenthal
Nicholas J. De Blouw

18 *Attorneys for Plaintiff*

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DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: May 15, 2023

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: _____
Norman B. Blumenthal
Nicholas J. De Blouw
Attorneys for Plaintiff

EXHIBIT 5(C)

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

**2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037**

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Fax: (858) 551-1232

WRITERS E-MAIL:

Sergiojulian@bamlawca.com

WRITERS EXT:

1001

February 7, 2024
CA2959

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Bon Appetit Management Co.
Certified Mail #9589071052701316528629
Lonnie Giamela, Esq.
Areen Babajanian, Esq.
FISHER & PHILLIPS, LLP
444 S. Flower Street, Suite 1500
Los Angeles, CA 90071

AMENDED NOTICE FOR LWDA CASE NO.: LWDA-CM-956640-23

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

Our office represents Plaintiff Francisco Garcia (hereinafter “Plaintiff Garcia”), and other Aggrieved Employees in a lawsuit against Defendants Compass Group USA, Inc., and Bon Appetit Management, Co., collectively “Defendant”).

Plaintiff Garcia originally sent a PAGA Notice on May 22, 202, which gave notice to the LWDA, and Defendant Compass Group USA, Inc., and Bon Appetit Management, Co., to enable Plaintiff Garcia to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et. seq.*

This Amended Notice is intended to amend Plaintiff Garcia’s original PAGA Notice and to add additional Plaintiff Monica Barbary (hereinafter “Plaintiff Barbary”). Plaintiff’s Francisco Garcia and Monica Barbary shall collectively be referred to as “Plaintiffs”.

“Aggrieved Employees” refers to all individuals who are or previously were employed by Bon Appetit Management Co. and/or Compass Group USA, Inc. in California, including any employees staffed with Bon Appetit Management Co. and/or Compass Group USA, Inc. by a third party, and classified as non-exempt employees during the time period of May 22, 2022 until

a date as determined by the Court. Our offices represent Plaintiffs Francisco Garcia and Monica Barbary ("Plaintiffs") and other Aggrieved Employees in a lawsuit against Bon Appetit Management Co. and/or Compass Group USA, Inc. ("Defendants"). Plaintiff Garcia has been employed by Defendant in California since May of 2022. Plaintiff Garcia has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Plaintiff Barbary was employed by Defendant in California from June 20, 2022 through June 26, 2023. Plaintiff Barbary has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to all the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiffs and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiffs and Aggrieved Employees to report for work, but "furnished less than half said employee's usual or scheduled day's work," Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiffs and Aggrieved Employees for at least two (2) hours' worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiffs and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiffs and other Aggrieved Employees with their wages. Plaintiffs further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFFS and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFFS and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiffs contend that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiffs began and ended each shift and meal period. Plaintiffs and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiffs and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiffs against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiffs, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiffs, and (iv) sets forth the illegal practices used by Defendant, is attached

hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiffs therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiffs to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiffs and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Sergio J. Puche

Sergio J. Puche, Esq.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

**2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037**

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WRITERS E-MAIL:

sergiojulian@bamlawca.com

WRITERS EXT:

1001

February 7, 2024
CA2959

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Compass Group USA, Inc.
Certified Mail #9589071052701316528599
CSC - Lawyers Incorporating Service
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE, Suite 150N
SACRAMENTO, CA 95833

AMENDED NOTICE FOR LWDA CASE NO.: LWDA-CM-956640-23

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

Our office represents Plaintiff Francisco Garcia (hereinafter “Plaintiff Garcia”), and other Aggrieved Employees in a lawsuit against Defendants Compass Group USA, Inc., and Bon Appetit Management, Co., collectively “Defendant”).

Plaintiff Garcia originally sent a PAGA Notice on May 22, 2022, which gave notice to the LWDA, and Defendant Compass Group USA, Inc., and Bon Appetit Management, Co., to enable Plaintiff Garcia to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et. seq.*

This Amended Notice is intended to amend Plaintiff Garcia’s original PAGA Notice and to add additional Plaintiff Monica Barbary (hereinafter “Plaintiff Barbary”). Plaintiff’s Francisco Garcia and Monica Barbary shall collectively be referred to as “Plaintiffs”.

“Aggrieved Employees” refers to all individuals who are or previously were employed by Bon Appetit Management Co. and/or Compass Group USA, Inc. in California, including any employees staffed with Bon Appetit Management Co. and/or Compass Group USA, Inc. by a third party, and classified as non-exempt employees during the time period of May 22, 2022 until a date as determined by the Court. Our offices represent Plaintiffs Francisco Garcia and Monica Barbary (“Plaintiffs”) and other Aggrieved Employees in a lawsuit against Bon Appetit

Management Co. and/or Compass Group USA, Inc. (“Defendants”). Plaintiff Garcia has been employed by Defendant in California since May of 2022. Plaintiff Garcia has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Plaintiff Barbary was employed by Defendant in California from June 20, 2022 through June 26, 2023. Plaintiff Barbary has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to all the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiffs and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiffs and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiffs and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiffs and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiffs and other Aggrieved Employees with their wages. Plaintiffs further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFFS and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFFS and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiffs contend that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiffs began and ended each shift and meal period. Plaintiffs and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiffs and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiffs against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiffs, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiffs, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency’s reference. Plaintiffs

therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiffs to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiffs and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ *Sergio J. Puche*

Sergio J. Puche, Esq.

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

2 Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

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2255 Calle Clara

4 La Jolla, CA 92037

Telephone: (858)551-1223

5 Facsimile: (858) 551-1232

Website: www.bamlawca.com

6 Attorneys for Plaintiff

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **IN AND FOR THE COUNTY OF SANTA CLARA**

9
10 FRANCISCO GARCIA and MONICA
11 BERBERY, on behalf of the State of
California, as a private attorney general,

12
13 Plaintiff,

14 vs.

15 BON APPETIT MANAGEMENT CO., a
California Corporation; COMPASS GROUP
16 USA, INC., a Corporation; and DOES 1
through 50, inclusive,

17 Defendants.
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Case No. 23CV422469

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR:**

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210,
218, 221, 226(a), 226.7, 227.3, 246, 510,
512, 558(a)(1)(2), 1194, 1197, 1197.1,
1198, 2802, California Code of
Regulations, Title 8, Section 11040,
Subdivision 5(A)-(B), California Code of
Regulations, Title 8, Section 11070(14)
(Failure to Provide Seating), and the
applicable Wage Order(s).

1 Plaintiff Francisco Garcia (hereinafter “Plaintiff Garcia”) and Plaintiff Monica Barbery
2 (hereinafter “Plaintiff Barbery”), (collectively “PLAINTIFFS”), on behalf of the people of the
3 State of California and as “aggrieved employees” acting as a private attorney generals under the
4 Labor Code Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, allege on
5 information and belief, except for their own acts and knowledge which are based on personal
6 knowledge, the following:

7 INTRODUCTION

8 1. PLAINTIFFS bring this action against Defendants Bon Appetit Management Co.
9 and Compass Group USA, Inc. (referred to as “DEFENDANT”) seeking only to recover PAGA
10 civil penalties for himself, and on behalf of all current and former aggrieved employees that
11 worked for DEFENDANT. PLAINTIFFS do **not seek to recover anything other than**
12 **penalties as permitted by California Labor Code § 2699.** To the extent that statutory
13 violations are mentioned for wage violations, PLAINTIFFS do not seek underlying general
14 and/or special damages for those violations, but simply the civil penalties permitted by
15 California Labor Code § 2699.

16 2. California has enacted the PAGA to permit an individual to bring an action on
17 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
18 nature of this action.

19 3. Accordingly, PLAINTIFFS seek to obtain all applicable relief for
20 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
21 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
22 complaint should be construed as attempting to obtain any relief that would not be available in
23 a PAGA-only action.

24 THE PARTIES

26 4. Bon Appetit Management Co. is a California Corporation that at all relevant times
27 mentioned herein conducted and continues to conduct substantial business in California.

28 5. Compass Group USA, Inc. a Corporation that at all relevant times mentioned

1 herein conducted and continues to conduct substantial business in California.

2 6. Bon Appetit Management Co. and Compass Group USA, Inc. are the joint
3 employers of PLAINTIFFS as evidenced by paycheck and by the company PLAINTIFFS
4 performed work for respectively, and are therefore jointly responsible as employers for the
5 conduct alleged herein, and are therefore collectively referred to herein as (“DEFENDANT”).

6 7. DEFENDANT is an on-site restaurant company, that provides café and catering
7 services to corporations, colleges, and universities.

8 8. PLAINTIFF Garcia has been employed by DEFENDANT in California since May
9 of 2022, and has been at all times classified by DEFENDANT as a non-exempt employee, paid
10 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
11 minimum and overtime wages due for all time worked. PLAINTIFF Barbary has been employed
12 by DEFENDANT in California from June 20, 2022 through June 26, 2023, and was at all times
13 classified by DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled
14 to the legally required meal and rest periods and payment of minimum and overtime wages due
15 for all time worked.

16 9. PLAINTIFFS, and such persons that may be added from time to time who satisfy
17 the requirements and exhaust the administrative procedures under the Private Attorney General
18 Act, bring this Representative Action on behalf of the State of California with respect to
19 themselves and all individuals who are or previously were employed by Bon Appetit
20 Management Co. and/or Compass Group USA, Inc. in California, including any employees
21 staffed with Bon Appetit Management Co. and/or Compass Group USA, Inc. by a third party,
22 and classified as non-exempt employees (“AGGRIEVED EMPLOYEES”) during the time
23 period of May 22, 2022 until a date as determined by the Court (the "PAGA PERIOD").

24 10. PLAINTIFFS, on behalf of themselves and all AGGRIEVED EMPLOYEES
25 presently or formerly employed by DEFENDANT during the PAGA PERIOD, bring this
26 representative action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for
27 DEFENDANT’s violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218,
28

221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), and the applicable Wage Order(s). Based upon the foregoing, PLAINTIFFS and all AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code § 2699, *et. seq.*

11. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFFS are informed and believes, and based upon that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

12. The agents, servants and/or employees of the Defendants and each of them acting on behalf of the Defendants acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally liable to PLAINTIFFS and all the AGGRIEVED EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants' agents, servants and/or employees.

THE CONDUCT

13. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFFS and the AGGRIEVED EMPLOYEES for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. DEFENDANT requires

1 PLAINTIFFS and the AGGRIEVED EMPLOYEES to work without paying them for all the
2 time they are under DEFENDANT's control. Among other things, DEFENDANT requires
3 PLAINTIFFS to work while clocked out during what is supposed to be PLAINTIFF's off-duty
4 meal break. PLAINTIFFS were from time to time interrupted by work assignments while
5 clocked out for what should have been PLAINTIFFS' off-duty meal break. DEFENDANT, as
6 a matter of established company policy and procedure, administers a uniform practice of
7 rounding the actual time worked and recorded by PLAINTIFFS and the AGGRIEVED
8 EMPLOYEES, always to the benefit of DEFENDANT, so that during the course of their
9 employment, PLAINTIFFS and the AGGRIEVED EMPLOYEES are paid less than they would
10 have been paid had they been paid for actual recorded time rather than "rounded" time.
11 Additionally, DEFENDANT engages in the practice of requiring PLAINTIFFS and the
12 AGGRIEVED EMPLOYEES to perform work off the clock in that DEFENDANT, as a
13 condition of employment, required these employees to submit to mandatory temperature checks
14 and symptom questionnaires for COVID-19 screening prior to clocking into DEFENDANT's
15 timekeeping system for the workday. As a result, PLAINTIFFS and the AGGRIEVED
16 EMPLOYEES forfeit minimum wage, overtime wage compensation, and off-duty meal breaks
17 by working without their time being correctly recorded and without compensation at the
18 applicable rates. DEFENDANT's policy and practice not to pay PLAINTIFFS and the
19 AGGRIEVED EMPLOYEES for all time worked, is evidenced by DEFENDANT's business
20 records.

21 14. State law provides that employees must be paid overtime and meal and rest break
22 premiums at one-and-one-half times their "regular rate of pay." PLAINTIFFS and the
23 AGGRIEVED EMPLOYEES are compensated at an hourly rate plus incentive pay that is tied
24 to specific elements of an employee's performance.

25 15. The second component of PLAINTIFFS' and the AGGRIEVED EMPLOYEES'
26 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFFS
27 and the AGGRIEVED EMPLOYEES incentive wages based on their performance for
28 DEFENDANT. The non-discretionary incentive program provided all employees paid on an

1 hourly basis with incentive compensation when the employees met the various performance
2 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
3 overtime and meal and rest break premiums to PLAINTIFFS and the AGGRIEVED
4 EMPLOYEES, DEFENDANT failed to include the incentive compensation as part of the
5 employees' "regular rate of pay" for purposes of calculating overtime pay and meal and rest
6 break premium pay. Management and supervisors described the incentive program to potential
7 and new employees as part of the compensation package. As a matter of law, the incentive
8 compensation received by PLAINTIFFS and the AGGRIEVED EMPLOYEES must be included
9 in the "regular rate of pay." The failure to do so has resulted in a underpayment of overtime
10 compensation and meal and rest break premiums to PLAINTIFFS and the AGGRIEVED
11 EMPLOYEES by DEFENDANT.

12 16. As a result of their rigorous work schedules, PLAINTIFFS and the AGGRIEVED
13 EMPLOYEES were from time to time unable to take thirty (30) minute off duty meal breaks
14 and were not fully relieved of duty for their meal periods. PLAINTIFFS and the AGGRIEVED
15 EMPLOYEES were required from time to time to perform work as ordered by DEFENDANT
16 for more than five (5) hours during some shifts without receiving a meal break. Further,
17 DEFENDANT from time to time failed to provide PLAINTIFFS and AGGRIEVED
18 EMPLOYEES with a second off-duty meal period for some workdays in which these employees
19 were required by DEFENDANT to work ten (10) hours of work. DEFENDANT also engaged
20 in the practice of rounding the meal period times to avoid paying penalties to PLAINTIFFS and
21 the AGGRIEVED EMPLOYEES. PLAINTIFFS and the AGGRIEVED EMPLOYEES
22 therefore forfeit meal breaks without additional compensation and in accordance with
23 DEFENDANT's corporate policy and practice.

24 17. During the PAGA PERIOD, PLAINTIFFS and the AGGRIEVED EMPLOYEES
25 were also required from time to time to work in excess of four (4) hours without being provided
26 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at
27 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to
28 time, a first and second rest period of at least ten (10) minutes for some shifts worked of

1 between six (6) and eight (8) hours from time to time, and a first, second and third rest period
2 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
3 PLAINTIFFS and the AGGRIEVED EMPLOYEES were also not provided with one hour
4 wages in lieu thereof. Additionally, the applicable California Wage Order requires employers
5 to provide employees with off-duty rest periods, which the California Supreme Court defined
6 as time during which an employee is relieved from all work related duties and free from
7 employer control. In so doing, the Court held that the requirement under California law that
8 employers authorize and permit all employees to take rest period means that employers must
9 relieve employees of all duties and relinquish control over how employees spend their time
10 which includes control over the locations where employees may take their rest period.
11 Employers cannot impose controls that prohibit an employee from taking a brief walk - five
12 minutes out, five minutes back. Here, DEFENDANT's policy restricted PLAINTIFFS and the
13 AGGRIEVED EMPLOYEES from unconstrained walks and is unlawful based on
14 DEFENDANT's rule which states PLAINTIFFS and the AGGRIEVED EMPLOYEES cannot
15 leave the work premises during their rest period.

16 18. During the PAGA PERIOD, DEFENDANT failed to accurately record and pay
17 PLAINTIFFS and the AGGRIEVED EMPLOYEES for the actual amount of time these
18 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
19 DEFENDANT was required to pay PLAINTIFFS and the AGGRIEVED EMPLOYEES for all
20 time worked, meaning the time during which an employee was subject to the control of an
21 employer, including all the time the employee was permitted or suffered to permit this work.
22 DEFENDANT required these employees to work off the clock without paying them for all the
23 time they were under DEFENDANT's control. As such, DEFENDANT knew or should have
24 known that PLAINTIFFS and the AGGRIEVED EMPLOYEES were under compensated for
25 all time worked. As a result, PLAINTIFFS and the AGGRIEVED EMPLOYEES forfeited time
26 worked by working without their time being accurately recorded and without compensation at
27 the applicable minimum wage and overtime wage rates. To the extent that the time worked off
28 the clock does not qualify for overtime premium payment, DEFENDANT failed to pay

1 minimum wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194,
2 1197, and 1197.1.

3 19. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the
4 AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to
5 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226
6 provides that every employer shall furnish each of his or her employees with an accurate
7 itemized wage statement in writing showing, among other things, gross wages earned and all
8 applicable hourly rates in effect during the pay period and the corresponding amount of time
9 worked at each hourly rate. PLAINTIFFS and the AGGRIEVED EMPLOYEES were paid on
10 an hourly basis. As such, the wage statements should reflect all applicable hourly rates during
11 the pay period and the total hours worked, and the applicable pay period in which the wages
12 were earned pursuant to California Labor Code Section 226(a). The wage statements
13 DEFENDANT provided to PLAINTIFFS and the AGGRIEVED EMPLOYEES failed to
14 identify such information. More specifically, the wage statements failed to identify the accurate
15 total hours worked each pay period. When the hours shown on the wage statements were added
16 up, they did not equal the actual total hours worked during the pay period in violation of Cal.
17 Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph, DEFENDANT
18 failed to issue to PLAINTIFF an itemized wage statement that lists all the requirements under
19 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided
20 PLAINTIFFS and the AGGRIEVED EMPLOYEES with wage statements which violated Cal.
21 Lab. Code § 226.

22 20. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
23 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the
24 wages are paid not more than seven (7) calendar days following the close of the payroll period.
25 Cal. Lab. Code § 210 provides:

26 [I]n addition to, and entirely independent and apart from, any other penalty
27 provided in this article, every person who fails to pay the wages of each
28 employee as provided in Sections. . . .204. . . shall be subject to a civil penalty
as follows: (1) For any initial violation, one hundred dollars (\$100) for each
failure to pay each employee; (2) For each subsequent violation, or any willful

1 or intentional violation, two hundred dollars (\$200) for each failure to pay each
2 employee, plus 25 percent of the amount unlawfully withheld.

3 21. DEFENDANT from time to time failed to pay PLAINTIFFS and the
4 AGGRIEVED EMPLOYEES within seven (7) days of the close of the payroll period in
5 accordance with Cal. Lab. Code § 204(d), including but not limited to the “Hourly” regular
6 wage payments.

7 22. DEFENDANT underpaid sick pay wages to PLAINTIFF and the AGGRIEVED
8 EMPLOYEES by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.
9 Code Section 246. Specifically, PLAINTIFFS and other non-exempt employees earn non-
10 discretionary remuneration, including, but not limited to, incentives, shift differential pay, and
11 bonuses. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpays sick pay
12 to PLAINTIFFS and the AGGRIEVED EMPLOYEES at their base rates of pay.

13 23. Cal. Lab. Code Section 246(l)(2) requires that paid sick time for nonexempt
14 employees be calculated by dividing the employee’s total wages, not including overtime
15 premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days
16 of employment.

17 24. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at
18 the regular rate of pay. PLAINTIFFS and the AGGRIEVED EMPLOYEES routinely earned
19 non-discretionary incentive wages which increased their regular rate of pay. However, when
20 sick pay was paid, it was paid at the base rate of pay for PLAINTIFFS and the AGGRIEVED
21 EMPLOYEES, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab.
22 Code Section 246.

23 25. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and
24 the AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time
25 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFFS are informed and
26 believes and based thereon alleges that such failure to pay sick pay at regular rate was willful,
27 such that the AGGRIEVED EMPLOYEES whose employment has separated are entitled to
28 waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

1 26. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
2 to collect or receive from an employee any part of wages theretofore paid by said employer to
3 said employee." DEFENDANT failed to pay all compensation due to PLAINTIFFS and the
4 AGGRIEVED EMPLOYEES, made unlawful deductions from compensation payable to
5 PLAINTIFFS and the AGGRIEVED EMPLOYEES, failed to disclose all aspects of the
6 deductions from compensation payable to PLAINTIFFS and the AGGRIEVED EMPLOYEES,
7 and thereby failed to pay these employees all wages due at each applicable pay period and upon
8 termination.

9 27. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
10 PLAINTIFFS and the AGGRIEVED EMPLOYEES for required business expenses incurred
11 by the PLAINTIFFS and the AGGRIEVED EMPLOYEES in direct consequence of discharging
12 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers
13 are required to indemnify employees for all expenses incurred in the course and scope of their
14 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or
15 her employee for all necessary expenditures or losses incurred by the employee in direct
16 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
17 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
18 believed them to be unlawful."

19 28. In the course of their employment PLAINTIFFS and the AGGRIEVED
20 EMPLOYEES as a business expense, were required by DEFENDANT to use their own personal
21 cellular phones as a result of and in furtherance of their job duties as employees for
22 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated
23 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,
24 PLAINTIFFS and the AGGRIEVED EMPLOYEES were required by DEFENDANT to use
25 their personal cellular phones. As a result, in the course of their employment with
26 DEFENDANT, PLAINTIFF and the AGGRIEVED EMPLOYEES incurred unreimbursed
27 business expenses which included, but were not limited to, costs related to the use of their
28 personal cellular phones all on behalf of and for the benefit of DEFENDANT.

1 29. In violation of the applicable sections of the California Labor Code and the
2 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order,
3 DEFENDANT as a matter of company policy, practice and procedure, intentionally, knowingly
4 and systematically failed to provide PLAINTIFFS and the other AGGRIEVED EMPLOYEES
5 suitable seating when the nature of these employees' work reasonably permitted sitting.

6 30. DEFENDANT knew or should have known that PLAINTIFFS and other
7 AGGRIEVED EMPLOYEES were entitled to suitable seating and/or were entitled to sit when
8 it did not interfere with the performance of their duties, and that DEFENDANT did not provide
9 suitable seating and/or did not allow them to sit when it did not interfere with the performance
10 of their duties.

11 31. By reason of this conduct applicable to PLAINTIFFS and all AGGRIEVED
12 EMPLOYEES, DEFENDANT violated California Labor Code Section 1198 and Wage Order
13 4-2001, Section 14 by failing to provide suitable seats. PLAINTIFFS seeks penalties on behalf
14 of PLAINTIFF and other AGGRIEVED EMPLOYEES as provided herein. Providing suitable
15 seating is the DEFENDANT's burden. As a result of DEFENDANT's intentional disregard of
16 the obligation to meet this burden, DEFENDANT violated the California Labor Code and
17 regulations promulgated thereunder as herein alleged.

18 32. The employment of some AGGRIEVED EMPLOYEES has terminated and
19 DEFENDANT has not tendered payment of all wages owed as required by law. Additionally,
20 at all times during the term of PLAINTIFFS' employment with DEFENDANT, AGGRIEVED
21 EMPLOYEES earned and accrued vested vacation and holiday time on the date of their
22 termination pursuant to DEFENDANT's uniform vacation policies and applicable California
23 law. The amount of vacation pay AGGRIEVED EMPLOYEES earned and accumulated is
24 evidenced by DEFENDANT's business records. Additionally, DEFENDANT also underpaid
25 accrued vested vacation wages to AGGRIEVED EMPLOYEES by failing to pay such wages
26 at the regular rate of pay and more specifically the final rate of pay that included all non-
27 discretionary incentive compensation. Rather than pay vacation wages at the regular rate of pay,
28 DEFENDANT underpaid vacation wages to the AGGRIEVED EMPLOYEES at their base rates

1 of pay, instead of including all of the AGGRIEVED EMPLOYEES' non-discretionary incentive
2 compensation into the vacation wage payment calculations. DEFENDANT failed to specify in
3 DEFENDANT's written vacation policy the rate at which PLAINTIFFS and other
4 AGGRIEVED EMPLOYEES would be paid vacation upon leaving employment with
5 DEFENDANT. As a result of DEFENDANT's unlawful practice, policy and procedure to deny
6 paying the AGGRIEVED EMPLOYEES all of their vested vacation and holiday time,
7 DEFENDANT failed to pay the AGGRIEVED EMPLOYEES all vested vacation time as
8 wages due upon employment termination, in violation of the California Labor Code, Sections
9 201, 202, 203 and 227.3. Similarly, DEFENDANT underpaid waiting time penalties to
10 AGGRIEVED EMPLOYEES at their base rates of pay, instead of including all of the
11 AGGRIEVED EMPLOYEES' non-discretionary compensation into the waiting time penalty
12 calculations. This failure by DEFENDANT is believed to be the result of DEFENDANT's
13 unlawful, unfair and deceptive refusal to provide compensation for earned, accrued and vested
14 vacation and holiday time, as well as the corresponding waiting time penalties that were paid.
15 DEFENDANT perpetrated this unlawful, unfair and deceptive practice to the detriment of
16 AGGRIEVED EMPLOYEES. DEFENDANT's uniform practice and policy of failing to pay
17 the AGGRIEVED EMPLOYEES for all vested vacation and holiday time accumulated at
18 employment termination violated and continues to violate Section 227.3 of the California Labor
19 Code.

20 33. All of the conduct and violations alleged herein occurred during the PAGA
21 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
22 PLAINTIFFS during the PAGA PERIOD, PLAINTIFFS seek penalties for those violations that
23 affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
24 AJDAR 12157 (Certified for Publication 12/19/18).

25 26 **JURISDICTION AND VENUE**

27 34. This Court has jurisdiction over this Action pursuant to California Code of Civil
28 Procedure, Section 410.10.

35. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this County against PLAINTIFF and other AGGRIEVED EMPLOYEES.

FIRST CAUSE OF ACTION

For Violation of the Private Attorneys General Act

[Cal. Lab. Code §§ 2698, *et seq.*]

(By PLAINTIFF and Against All Defendants)

36. PLAINTIFFS reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

37. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to arbitration.

38. PLAINTIFFS, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, bring this Representative Action on behalf of the State of California with respect to themselves and all individuals who are or previously were employed by Bon Appetit Management Co. and/or Compass Group USA, Inc. in California, including any employees staffed with Bon Appetit Management Co. and/or Compass Group USA, Inc. by a third party,

1 and classified as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time
2 period of May 22, 2022 until a date as determined by the Court (the "PAGA PERIOD").

3 39. On May 22, 2023, Plaintiff Garcia gave written notice by electronic mail to the
4 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
5 employer of the specific provisions of this code alleged to have been violated as required by
6 Labor Code § 2699.3. See **Exhibit #1**, attached hereto and incorporated by this reference herein
7 (*PAGA Notice only without draft complaint*). On February 7, 2024, Plaintiff Barbery gave
8 written notice by electronic mail to the Agency, and by certified mail to the employer of the
9 specific provisions of this code alleged to have been violated as required by Labor Code §
10 2699.3. See **Exhibit #2**, attached hereto and incorporated by this reference herein (Amended
11 *PAGA Notice only without draft complaint*). The statutory waiting period for PLAINTIFFS to
12 add these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3,
13 PLAINTIFFS may now commence a representative civil action under PAGA pursuant to
14 Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
15 EMPLOYEES as herein defined.

16 40. The policies, acts and practices heretofore described were and are an unlawful
17 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the
18 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
19 and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed
20 to pay overtime wages and sick pay wages, (e) failed to reimburse employees for required
21 expenses, (f) failed to provide wages when due, and (g) failed to provide suitable seating, all
22 in violation of the applicable Labor Code sections listed in Labor Code §§ 201, 202, 203, 204
23 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1,
24 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B),
25 California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and
26 the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
27
28

1 conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the Labor
2 Code Private Attorney General Act of 2004 as the representative of the State of California for
3 the illegal conduct perpetrated on PLAINTIFFS and the AGGRIEVED EMPLOYEES.

4
5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
7 severally, as follows:

8 1. On behalf of the State of California and with respect to all AGGRIEVED
9 EMPLOYEES:

10 A) Recovery of civil penalties as prescribed by the Labor Code Private
11 Attorneys General Act of 2004; and,

12 B) An award of attorneys' fees and cost of suit, as allowable under the
13 law, including, but not limited to, pursuant to Labor Code §2699.

14 Dated: February 7, 2024 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
15 LLP

16 By: _____
17 Norman B. Blumenthal
18 Kyle R. Nordrehaug
19 Nicholas J. De Blouw
20 *Attorneys for Plaintiff*

21
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23
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27 _____
28 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
Code §558(a)(3).

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EXHIBIT 1

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EXHIBIT 2

EXHIBIT 6

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Attorneys for Plaintiffs KADIE FREEMAN,
FRANCISCO GARCIA, and MONICABARBERY

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN MATEO

KADIE FREEMAN, FRANCISCO GARCIA, and
MONICA BARBERY, individually, and on behalf
of all persons similarly situated,

Plaintiffs,

vs.

BON APPETIT MANAGEMENT COMPANY, a
California corporation; COMPASS GROUP USA,
INC., a Delaware corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: **23-CIV-01497**

**DECLARATION OF CHRISTOPHER
LONGLEY ON BEHALF OF ATTICUS
ADMINISTRATION, LLC**

Hearing Date: April 10, 2025

Hearing Time: 9:00 a.m.

Judge: Hon. Nina Shapirshteyn

Dept.: 7

Action Filed: September 15, 2023

Trial Date: Not Set

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3 **DECLARATION OF CHRISTOPHER LONGLEY**
4

5 I, **CHRISTOPHER LONGLEY**, hereby declare as follows:
6

7 1. I am the Chief Executive Officer for Atticus Administration, LLC ("Atticus"). My business
8 address is 1295 Northland Drive, Suite 160, Saint Paul, Minnesota 55120. My telephone number is
9 (612) 315-9007. I am over twenty-one years of age and am authorized to make this declaration on
10 behalf of Atticus and myself.
11

12 2. In 2016, I, along with other experienced legal, financial, digital marketing professionals
13 and brand managers, founded Atticus in order to provide innovative and cost-effective notice campaigns
14 and claims administration services to the class action legal sector.

15 3. Prior to founding Atticus, I served as the president of Dahl Administration, LLC, a
16 nationally recognized claims administration company, where I oversaw over three hundred (300)
17 settlements, including some of the highest profile cases over the last few years, including, for example,
18 *In Re Motor Fuel* (Hot Fuel), Case No. 2:07-md-01840 (KS 2016) and the *Target Data Breach*,
19 *Financial Institutions*, N0.14-md-02522 (MN 2015) class action settlement.
20

21 4. Atticus provides services in class action settlements involving, inter alia, antitrust,
22 consumer fraud, financial services, data breach cases, insurance, ADA, civil rights, class certification
23 notifications, Belaire-West notifications, and employment matters, including wage and hour, PAGA and
24 FLSA collective actions.

25 5. Atticus's core competencies include pre-certification mailings, claims administration
26 including the processing of claim forms, claim validation and anti-fraud detection, data preparation and
27
28

1 data management, accounting services and tax reporting, qualified settlement fund management and
2 escrow services, and distribution of funds.

3 6. Since its inception, Atticus has provided administrative services in over 1250 class,
4 collective or PAGA settlements and has disbursed approximately \$1.47 billion (See **Exhibit 1**). Among
5 the founders and team members of Atticus, collectively we have administered over 3,000 settlements
6 and have disbursed over \$3,000,000,000 in settlement funds.
7

8 7. Atticus will upon Court approval mail PAGA checks along with a letter of explanation to
9 Aggrieved Employees to their Last Known Address via pre-paid postage first class mail through the
10 United States Postal Service. Prior to mailing the distributions, Atticus will verify the Last Known
11 Address using the National Change of Address (NCOA) database maintained by the United States Postal
12 Office, and if an Updated Address is found, that Updated Address shall be used in lieu of the Last
13 Known Address and be treated as the new Last Known Address for purposes of this mailing and
14 subsequent mailings. Any distributions that are returned will be processed, skip-traced and re-mailed as
15 outlined in the Settlement Agreement, three business days (3) after Notice is returned for address
16 correction.
17

18 8. Atticus uses a variety of tools for skip- tracing purposes in order to find addresses that
19 have no forwarding location. These tools include Experian or IDI, and other professional resources like
20 Experian or IDI to locate Class Members. In some instances, Atticus will also hire professional skip
21 tracing firms to locate missing Aggrieved Employees for distribution purposes. Until Atticus reviews the
22 data file in the above captioned case, we do not yet know what the best course of action will be to
23 contact those Aggrieved Employees who do not have forwarding address information on file.
24

25 9. Atticus has agreed to a capped fee to administer the above captioned case, for
26 approximately \$27,500. If the scope of work increases or decreases significantly, Atticus will inform the
27 parties and request approval of an adjustment. This fee includes all normal costs to administer a PAGA
28 settlement, including mailing, printing, skip-tracing and NCOA searches in preparation of mailing the

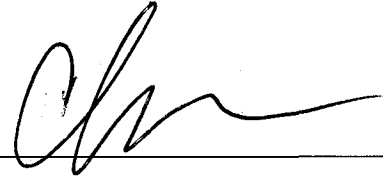
1 PAGA Payments. All costs associated with communications, including live telephone support, and 800
2 toll-free number. All costs associated with the distribution of settlement awards, including payment
3 calculations, qualified settlement account and account management and QSF tax reporting. Costs also
4 include employment and tax award reporting, including the issuance of W-2's and 1099 tax forms, if
5 required, to Aggrieved Employees. Payment to the state LWDA. Project management time is included in
6 the costs, in which we estimate a total of 34 hours of project time for this matter. A copy of our bid is
7 attached as **Exhibit 2**.

8
9 10. Atticus maintains insurance with AAA rated insurance carriers for professional liability
10 and cybersecurity. Further it is Atticus' policy to warrant the work performed on all errors and
11 omissions, on all projects, including distribution of funds to class members, without additional charges
12 to our clients.

13
14 11. Atticus takes its obligation to secure information systems and protect the privacy of the
15 client data received for all administration processes very seriously. A copy of Atticus' *Data Security*
16 *Information & Privacy Policy* that outlines the standard operating procedures for the handling the
17 collection, storage and use of client data is attached to this Declaration as **Exhibit 3**.

18
19 12. I further attest to the fact that Atticus has no independent financial relationship with
20 either plaintiff, plaintiff's counsel, or defense counsel in this matter. Nor, upon review does Atticus
21 have any conflicts or potential conflicts with any member of the class in this matter.
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2 **I declare under penalty of perjury under the laws of the United States of America and the**
3 **State of California that the foregoing is true and correct to the best of my knowledge. Executed**
4 **this 12th day of March 2025, at Saint Paul, Minnesota.**

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8 Chris Longley | CEO

9 Atticus Administration, LLC
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EXHIBIT 1

CURRICULUM VITAE

About Atticus Administration LLC

Founded in August 2016, Atticus has administered over 1250 settlements and has distributed more than \$1.47 billion in award payments. Collectively, the Atticus team has over 125 years of industry experience, has managed over 3,000 settlements, and has distributed more than \$3 billion. Below is a partial listing of our cases, and the cases that our team has managed during their careers.

Partial Listing of Atticus' Current Cases and References

Shahno v Pendry	
AAFCU GAP Interest Settlement	2020CV32226
Abdul-Ahad v Associated Courier, Inc (Street Fleet)	0:20-CV-00607-PJS-HB
Abrams v Savannah College of Art & Design (SCAD)	
Acevedo v Southwest Airlines	1:16-cv-00024-MV-LF
Ahmed v Beverley Hills Rehabilitation Services	2:16-cv-01747-WBS-KJN
Alvechurch v Suburban [PAGA]	
Ali v Sutter Valley Medical Foundation	34-2017-00217486
Allard v Med Impact	
Allianz Life Ins Co Class Cert	27-CV-17-15118
Altamirano-Santiago v Better Produce Inc Class Cert	Civil Action 2:19-cv-3964
Altamirano-Santiago v Better Produce Settlement	2:19-CV-3964-DDP
Alvarez v AutoZone	CIVDS1416344
Amaya v Eagle Tech Manufacturing	17CV02862
Amaya v Eagle Tech Manufacturing Cert	17cv02862
AMEX Data Breach	
Amezcuca Peregrina v SEAM Group	1:20-cv-01032-SO
Anderson v The Cellular Connection	2021-CA-007204-AXX
Andrade v Caltech	VCU 266410
Andrade v ESMI	CIVD82023816
Andrews v Prestige Care, Inc.	2:18-CV-00378-JAM-KJN
Arnold v Edwin Trucking	20TRCV00191
Arrieta v Genentech	21-CV-05353
Ashe v Farmers Insurance Group	18STCV00453



Astorga v Bosman Dairy
Athas v US Steel Corporation
Atlanta Hawks FACTA
Avilez v Full Steam Staffing
Ayala et al v Olson Brothers Ranchers
Baca v Two Jinn
Baldwin v RHP Properties
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FCS048401

19-CV-6691-SJB

5:22-cv-10532-JEL-APP
1:17-CV-1335
1:17-cv-1335-TJM-CFH
MIL-L-2441-17
19-80064-TLS
3:22 CV 02106 B
STK-CV-UOE-2020-9296



Stinson Insurance Settlement
Stotesbery v Muy Pizza-Teja's Class Cert
Supplemental Income Trust Settlement-ERISA
Sutton v United Courier
Tapia v Rivo Holdings
Taylor v Debics Cert
Teleaga v Beyer Services
Terry v Bay Area Beverage Co
Tharpe v Sprint Corp
The Bakery v Kenneth Pritt
The Body Shop FACTA
The Cellular Connection
Thomas v City of Edmundson
Thomas v Goodman Manufacturing
Thomas v Wellnitz
Tinaco v Quik Stop
Tirado v Deluxe Auto Sales
Titus v Martin-Brower Company
TNG Retail Services
Torres v Community Health Alliance of Pasadena
Touma v Budee, Inc.
TPH v BSFC
Turner v Walmart
Udoewa v Divergent
Udoewa v Ettain Group Inc
USA v Pelfrey & Omega
USA v Pfeiffer
USI Settlement
Vae v MOGA
Vaesau v PCT Enterprises, Inc. DBA Precision Cabinets
Valdivia v Best Contracting
Valladares v Zacky
Vargas v SkySkopes, INC
Vega v Bar VP Dairy
Vela Cruz v AG Transport
Velasquez v Stater Brothers Ranch
Velasquez v Vantec Hitachi Transport
Velleman v WCU
Velazquez v SMD
Viesse v Tacoma Screw
Velshis-Bautista v. Brewster Heights DBA Gebers
Villafan v Broadpectrum
Villanueva v Custom Orchard, Inc
Vinnitsky v LA Overnight
Wa v Safeway Inc
Wade v American Directions Research (ADRG)

Wade v Furmanite American
Wakefern (data verification project)
Wall v AshBritt
Wall v HP, Inc

0:22-cv-01622-KMM-TNL

1;20-cv-682
37-2021-00046361-CU-OE-CTL
3:22 CV 02141 E
STK-CV-UOE-2018-6387
MSC18-00859

No. 2017-L-000604

4:18-cv-2071 RLW

RG19023516
RG20061119

2:17-cv-00558-JAM-GGH

BC713396
MSC18-01729
1916-CV07105
20SL-CC00466
159458/2018
3:18-cv-00535-MOC-DCK
CIV-18-00945-JD
20-cv-1974 (WMW/KMM)

BCV-20-103017-BCB
MSC18-02404
19STCV38294

56-2020-00544196-CU-OE-VTA
269713

20STCV20016
C.A. No. 1681-CV-03110

2:16-cv-01026-JCC
18-2-00253-24
3:18-cv-06741-LB

RG20075295
194251

3:18-cv-433
NA
3:15-cv-08982-PGS-TJ
30-2012-00537897-CU-BT-CXC



Wallack v AT&T Mobility	CIVSB2117915
WAM PAGA case	
Ward v Tilly's Inc.	BC595405
Ward v YRC Freight	19-2-28259-2 KNT
Warsame v Metropolitan Transportation Network (MTN)	20-cv-01318 ECT/ECW
Waters v Pizza to You	3:19-cv-372
Waters v Pizza to You Cert	3:19-cv-372
Watkins v Pressler Pressler	
Watts v TRL Systems [PAGA]	
Wazwaz v Hematogenic Laboratory Services, LLC	2021-CH-5893
Webb Santiago v AT&T Mobility	
Webb v City of Maplewood	4:16-cv-1703
Webb v City of Maplewood Cert	4:16 CV 1703 CDP
Wegner v Carahsoft	PJM 20-00305
Weirbach v The Cellular Connection	5:19-cv-05310-JDW
Wellinger v Live Nation	19STCV04397
Wesco Aircraft Hardware Corporation Settlement	
West v Bam! 216b Cert	1:22-cv-00209-DHU-JHR
White v Wesco Aircraft Hardware Corp	BC658654
Whitney v Cook County	18-cv-4475
Wicks v Title Loan Company DBA The Loan Machine	17SL-CC02673
Wilk v Skechers	5:18-cv-01921
Williams v Equitable Acceptance Corporation	18-CV-07537 (NRB)
Williams v Sake Hibachi Sushi & Bar	3:18-CV-0517-D
Wilson v Peckham	
Winkel v JH Steak	20-2-04853-4-SEA
Winsor v TBD Pizza	
Womack v Superior Energy Services	7:19-CV-00074
Wood v Athens-Clarke County	3:14-CV-00043-CDL
Xcel Health Settlement	
Ybarra v SIP 401K	8:17-cv-02091-JVS (Ex)
Ylvisaker v Clarkson Eyecare LLC	17SL-CC02089
Youmans v CPS	19EV001823
Young v Chieftain Coating	20-cv-10520
Zaldivar v. Moulton Logistics	19STCV12250
Zambrano v Strategic Delivery Solutions 216b	15-cv-8410 (ER) ED NY
Zamdio v Underground Rocket	
Zamora v Walgreen Co	114CV269810
Zollicoffer v Gold Standard Eagle v Vee Pak	13-CV-1524 (GSB) 12-C-9672 (Vee Pak)
Zollicoffer v MVP	16CV11086
Gause v Medical Billing Consultants	8:18-cv-1726-JSM-AAS
In Re United Collection Bureau, Inc	2:15-cv-01306
Jailall v Diesel USA	156210/2015
Picardo v Lundy-Tagaard Co	BC645411
Torres v Pick-a-Part Autoworks	1:16-cv-01915-DAD-BAM



Partial Listing of Cases Managed at Dahl Administration

Bokusky v. Edina Realty, 3:92-cv-00223

Sun Country Employee Litigation

Dupont Chemical Pollution Litigation

Haight v Bluestem Brands, Inc. -TCPA, No. 13-1400 (M.D. Fla.)

Dugan v TGIF-Wage and Hour/FLSA ,

Dunkel v Warrior Energy-Energy-Wage & Hour

Shelby v Miller Investment Group-Consumer Finance

Salas v Watkins Manufacturing-FLSA

Dull v IPS-Energy Sector Wage & Hour

Wallach v FFG-TCPA

Bourgeoisie v City of Baltimore-Consumer Fees

Brown v Alley-FLSA

Turner v ACD-Wage & Hour

Villa v San Francisco 49'ers-Consumer Fees

Thomas v Solvay

Reid v Unilever-Mass Tort

Zeller v PDC Corporation-FLSA

Murr v Capital One-Consumer Fraud

Redman v City of Chicago- FACTA

Ernst v Sterling-Dish Case-Consumer Fraud

Ott-Publix-FLSA

Ellsworth v US Bank-Consumer Finance

Vidra v Midland Financial-Consumer Finance

Vu v Performance Recovery

Freeman v Berkeley Packaging-FLSA



Martin v JTH-TCPA

Walker v Core Power Yoga-Wage & Hour

Froberg v Cumberland Packaging-Stevia in the Raw Settlement-1:14-cv-00670

Debarsekin v L2T-FLSA & Wage and Hour

Gay v Tom's of Maine-False Labeling, 0:14-cv-6060004-KMM

Templeton Rye -False Labeling

Belardes v Farm Fresh to You-FLSA

Tin Cup Settlement-False Labeling

Johnson v Scan SAT-Medical Billing Data Breach

Garcia v EJ Amusement-FLSA and Wage & Hour

Doran v Forever Grand Vacations-Consumer Fraud- Time Share

Velasco v Chrysler Corp-Recall

Covell v Sleep Train-Wage & Hour

Torres v Kwon Yet Lung-FACTA

Redman v IMAX-FACTA

In Re Motor Fuel- Hot Fuel Case- Consumer Fraud, MDL No. 1840, 07-md-1840-KHV

Haight v Bluestem-TCPA

Martin v JTH-TCPA

In Re Target Data Breach-Financial Institutions



ATTICUS MANAGEMENT TEAM

Chris Longley, co-founder, and CEO of Atticus Administration LLC – Former CEO of Dahl Administration, a nationally recognized Claims Administration Company. Licensed Attorney (retired in-active status), admitted to practice Minnesota, 8th Circuit and United States Supreme Court.

During Chris' tenure at Dahl, he successfully managed, more than 300 class and collective action settlements, including some of the highest profile cases in the last few years, including *In Re Motor Fuel* (Hot Fuel) MDL No: 1840, Case No: 07-md-1840-KHV, an all- digital notice campaign with over 160 MILLION class members in 36 states and US Territories, and the *Target Data Breach*- Financial Institutions Settlement, Case No. 0:14-md-02522-PAM .

Chris co-founded Atticus Administration LLC, in August 2016. Since its inception, Atticus has administered over 1250 settlements and has distributed more than \$1.47 billion in award payments.

Chris and his team have extensive experience in all matters of notice campaigns, including class certification notices, CAFA notices, WARN notices, ISO notices, Belaire West Notices, 216(b) notices, as well as other complex notification projects on an as need basis.

Chris is the author of *"Internet and Electronic Notification Methods for Rule 23: How to Enhance Reach, Conversion, Real Time Analytics to Reduce Administrative Costs"*, published in 2016.

Chris is currently the membership chair of the ABA's Consumer Litigation Committee and Class Actions & Derivatives (CADS) sub-committee and is a frequent speaker on matters relating to complex notice procedures for class action settlements.

Prior to joining the class action industry, he served for 11 years in the private equity industry focusing on telecommunication companies and company acquisitions. He has been a founding member of 14 start-up companies during this same period.

Prior to that experience he was a practicing attorney in Minneapolis, Minnesota. Chris was named *"40 under 40"* by the *City Business Magazine* in 2001, and a *"Power Lawyer"*, by *Law and Politics Magazine*. He practiced law for the Minneapolis law firm of Hessian, McKasy & Soderberg, LLP prior to launching his business career.

Chris graduated from William Mitchell College of Law and the University of St. Thomas, and currently splits his time between St. Paul, Minnesota, and New York city.

Bryn Bridley –VP of Business Development – Bryn has over 19 years of Project Management experience within the industry, having worked with two large Settlement Administrators, Rust Consulting and Dahl Administration. Bryn's past settlement administration work included the day-to-day activities of several high-profile consumers, employment and other types of cases. Bryn has extensive experience with CAFA Notices and Class Certification campaigns. Bryn is an honor's graduate of the University of Minnesota-Duluth and enjoys running and camping in her free time.



Ann Linton- Director of Project Management- With over 15 years of Industry experience, Ann worked as a project manager previously at Dahl Administration prior to joining Atticus as a project manager in 2018. A favorite of many of our customers, before being promoted to the director level, she concentrated her efforts on some of our more complex matters, including many mass arbitration cases, as well as many of our high-profile consumer fraud matters.

Milena Higgins -is a technology leader with a long history of innovation in the legal field. She has a proven track record of innovation, including developing groundbreaking testimony intelligence software and automated intellectual property tools. Her expertise in process improvement and efficiency has consistently driven operational excellence, ensuring exceptional service for law firm clients. Milena holds a Ph.D. in physics and an M.S. in Management of Technology from the University of Minnesota.

Jim Hardy, CPA (Inactive) – Co-Founder and CFO – Prior to co-founding Atticus, Jim held finance leadership positions over a twenty-year period in a variety of industries (contract manufacturing - implantable medical devices, sheet-fed printing, and commodity trading) where the wide-range of responsibilities and challenges from these experiences has enabled him to develop a versatile set of finance, administrative and operations skills.

Mike Gelhar – Practice Director, Employment & Treasury – Mike brings over 20 years of payroll experience in the employment law practice area. Along with his payroll knowledge, Mike is also bringing his work experience as he manages the processing and distribution of one of the nation's largest Labor and Employment administrators. These cases ranged from a few hundred claimants to over 700,000 claimants in all 50 states, including Puerto Rico.

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EXHIBIT 2

Atticus Administration, LLC
Chris Longley - CEO

Freeman-Garcia v Bon Appetit Management Co.
PAGA

Prepared for

Jenny D. Baysinger | Attorney
jbaysinger@mayallaw.com
P: 209.477.3833

Mayall Hurley, P.C.
112 South Church Street
Lodi, CA 95240



ATTICUS
SMART | ACCOUNTABLE | BETTER

Class Action Administration

Estimate E2024-08-E38
Freeman-Garcia v. Bon Appetit Management Co.
PAGA

Prepared on September 6, 2024
By Chris Longley - CEO | Atticus Administration LLC

Estimate Summary

Atticus Services & Cost Description	
NOTICE MAILING – Mailed First Class	\$0
<i>Not applicable</i>	
PROJECT MANAGEMENT, ADMIN FEES, TECHNICAL	\$3,500
COMMUNICATIONS	\$1,516
<i>PO box rental</i>	Included
<i>IVR, 800#, live operators</i>	Included
<i>Correspondence</i>	Included
FUND, TAX, REPORTING	\$2,728
<i>Setup QSF, file quarterly and annual tax returns</i>	Included
DISTRIBUTION	\$20,695
<i>Check printing, payment calculation and verification, bank fees (one distribution)</i>	Included
<i>Discount</i>	(\$939)
TOTAL:	\$27,500

Key Assumptions
- Aggrieved Employees: 13,500 individuals, PAGA only. - No separate noticing. - Data review, cleansing and preparing file for mailing; including NCOA, and new address searches (skip-tracing). - Communications includes, dedicated 800#, IVR and live operators. - PAGA payments to all individuals along with 2-page explanatory letter (English only). - Tax reporting will consist of 1099's. - CA only. Options: - Spanish translation (if needed) adds, \$250. - check cashing reminder postcard, adds \$3,950. - Static case website, adds \$1,500.

PRINT NAME

ROLE

Client Signature

Date

By signing above, I understand and agree to the pricing terms and services to be provided by Atticus Administration for the stated project.

PLEASE NOTE: This estimate and pricing is for the services stated herein and is valid for 30 days from the date of the estimate. If the Settlement Agreement or other service scope document(s) require additional services not included or priced in this estimate, we will separately price those scope changes and submit an updated quote prior to proceeding with the work.

Payment Terms:
100% payable PAGA distribution



Detailed Budget

Atticus Services & Cost Description				
DESCRIPTION		UNITS		SUBTOTAL
NOTICE MAILING (not applicable)		13,500	Class Mbrs	\$0
PROJECT MANAGEMENT		25	Hours	\$3,125
TECHNICAL SET UP (includes project kick-off)		3	Hours	\$375
COMMUNICATIONS - English only				\$1,516
Telephone (Setup, Monthly Fee)		6	Months	\$265
Telephone (Messages, Voicemail, IVR, Live Operator Support)		6	Months	\$1,131
PO Box (Setup, Monthly Fee)		6	Months	\$100
FUND, TREASURY & TAX REPORTING				\$2,728
Establish QSF		2	Hours	\$260
Tax Reporting (Prepare and File, Annual Fund Return, 1096 and Other Tax Forms)		6	Hours	\$780
Mail 1099's - No Postage - Mailed with Check		0	Mailed Forms	\$0
Print 1099's		13,500	1099's	\$1,688
DISTRIBUTION (Payment Calculations & Reporting)				\$20,695
Check and Cover Letter (Design, Review, Finalize)		6	Hours	\$741
Payment Data (Calculate, Verify Payments)		12	Hours	\$1,482
Payment Reports (Preparation, Reconciliations)		12	Hours	\$1,482
Check Printing (Print Setup, Printing, Mail Prep)		13,500	Printed Checks	\$5,563
Check Mailing Postage (will be 1x mailings)		13,500	Mailed Checks	\$8,505
Check Undeliverable Mail (Receipting, Cataloging, NCOA, Remailing)	5.0%	675	Pieces	\$1,954
Bank Fees (Account Setup, Monthly Fee)		6	Months	\$968
DATA STORAGE		n/a		\$0
Discount				(\$939)
		TOTAL		\$27,500

Operating Assumptions

- Aggrieved Employees:
13,500 individuals, PAGA Only.
- No noticing. Distribution includes 2-page explanatory letter to check recipients in English only.
- Data review, cleansing and preparing file for mailing; including NCOA, new address searches, and skip tracing if required.
- Communications includes, PO box, mail correspondence, 800# with live phone operators and IVR.
- Project management assumes 28 hours at a blended rate of \$125 per hour. Includes summary reporting on a weekly basis and requested declarations.
- Qualified Settlement Fund assumes 6 months. Price includes tax reporting both state and federal returns. All bank fees are included in pricing.
- All aggrieved employees receive a PAGA check along with explanatory letter and tax document.
- Disbursement includes positive pay "anti-fraud" features.



Thank you



Chris Longley – CEO

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EXHIBIT 3

Data Security & Information Privacy

Approved Date	November 13, 2024
Approved By	Director of Information Technology – Joel Prest; CFO, COO – James Hardy
Effective Date	November 8, 2024
Current Version	8.0

I. Overview

Atticus Administration, LLC (“Atticus”), in fulfilling the requirement as a third-party administrator under the terms of a court order and/or settlement agreement for specific court class action cases, is required to encrypt data considered {PROTECTED} or {RESTRICTED} including, but not limited to: Personally Identifiable Information (PII), Protected Health Information (PHI), credit card numbers, passwords, intellectual property, budget or contract proposals, legal correspondence and research and development information. This document contains policy and technical controls pertaining to Data Security and Information Privacy in order to protect the confidentiality and integrity of client data, protected data, or restricted data.

II. Scope

This policy applies to all company employees, temporary employees, contractors, consultants, vendors, service providers, partners, affiliates, third parties or any other person or entity authorized to utilize Atticus Administration’s information system resources. Accordingly, this policy also applies to all information systems, hardware, software, applications, network devices, data, media, and paper files at Atticus Administration and any approved third-party facilities.

III. Roles and Responsibilities

Name	Role	Responsibility
James Hardy	CFO, COO	Data Protection Officer
Joel Prest	Director of IT	Privacy Manager; Incident Response Manager
Veracity	MSP	IT Infrastructure Management; Software Patching
Target Defense	MRSP	Level 1 SOC; Managed Detection and Response

IV. Policy

1. Data Governance

Atticus is committed to protecting and safeguarding the data that it collects and recognizes this data as a critical asset. Atticus maintains a tiered data governance structure, managed by the Director of Information Technology and enforced by Atticus executive leadership, that governs individual Users access to data. This governance structure is further maintained through enforced processes, standards, and procedures to ultimately ensure appropriate use of data and/or management of data.

2. Internal Use of Data

Any client data and class member data records that Atticus collects, and stores are used only to fulfill Atticus' requirement as a third-party administrator under the terms of the Case Court Documents. This information is only available to Users as set forth by Atticus' tiered data governance structure.

3. External Use and Disclosure of Data

Atticus follows the direction and instructions outlined in the Case Court Documents for handling class member data records. All sensitive and non-public client data, class member data, and information for a case that is provided to Atticus, is the property of Atticus and may not be shared, used, or otherwise communicated outside of Atticus or outside the scope of the project. In cases where a contractor partner is used, only those who have been approved and authorized by Atticus management and have a privacy policy (or data security policy) consistent with Atticus' Data Security & Information Privacy Policy are allowed to be used.

4. Data Collection and Retention

Electronic transmission, delivery or receipt of sensitive data is only permitted using SFTP technology. Delivery or receipt of hardcopy sensitive data is only permitted using the US Mail System or a courier as approved by Atticus management. Atticus complies with all state and federal regulations that apply to data security. Once a case has closed, Atticus will destroy all hardcopy documents containing sensitive data within twelve months. Regarding all electronic case data (including sensitive data), Atticus maintains this data for up to five years following the closure of the case. In the event Court Case Documents specify unique data retention/return requirements, those requirements shall prevail over Atticus' standard retention/return policy.

5. Computing Devices and Access to Atticus Information Database and Network

Only Atticus IT approved devices may be used to access Atticus' information database and network. All devices must be protected with an employee's user access level systems username and password required at the time the device is powered on.

Access to database and network information must be authenticated using two-factor authentication.

Sensitive data shall not be stored on the device. However, in the event there is no alternative to device storage, all sensitive data must be encrypted with password protection. Atticus prohibits the use of public cloud storage for any client specific data.

Unattended devices must be logged out and locked when unattended, and additionally configured to automatically be logged out of and screen locked after 10 minute or more of inactivity.

All devices that access Atticus' information database and network infrastructure shall have active and up-to-date anti-malware and firewall protection.

6. Data Classification

Atticus Administration classifies sensitive information as {PROTECTED} or {RESTRICTED} depending on the sensitivity type. All data containing sensitive information must be properly transmitted and encrypted in accordance with Atticus Administration's data encryption standards. Atticus maintains an inventory of all systems where client or sensitive data is stored. The client and sensitive data includes, but not exclusive to:

- Personally Identifiable Information (PII)
- Protected Health Information (PHI)
- Credit Card Numbers
- Passwords
- Intellectual Property
- Budget or Contract Proposals
- Legal Correspondence
- Research and Development Information

7. Data Encryption Standards

a. Cryptographic Control Use

Cryptographic controls must be utilized for sensitive information classified by Atticus Administration as {PROTECTED} or {RESTRICTED} including, but not limited to: Personally Identifiable Information (PII), Protected Health Information (PHI), credit card numbers, passwords, intellectual property, budget or contract proposals, legal correspondence, and research and development information.

All encryption mechanisms utilized by Atticus must be authorized by the Privacy Manager before use.

Users must not attempt to utilize any form of cryptography, including, but not limited to, encryption, digital signatures, and digital certificates, which has not been approved and installed/implemented by an authorized agent of Atticus Administration.

The use of all encryption mechanisms must meet relevant regulatory and legal requirements, including any import/export restrictions or government requirements specific to the use of cryptographic software.

a. Cryptographic Control Standards

Cryptographic controls must only use secure cipher suites to protect data in transit and at rest. Any cipher suites that are considered vulnerable or deprecated through cybersecurity intelligence, reputable industry standards publishers (such as NIST), or flagged as a finding through vulnerability scanning are prohibited from use. The Data Protection Officer has final authority to approve or deny the use of any cipher suites or cryptographic control implementations on an as-needed basis.

b. Encryption in Transit

All sensitive information classified by Atticus Administration as PROTECTED or RESTRICTED including, but not limited to, PII, PHI, credit card numbers, passwords, and research and development information, must be encrypted when transmitted externally to or from Atticus Administration's information system boundaries. Access to protected or restricted data stored on Atticus Administration's servers must be done through secure, encrypted communications protocols such as TLS 1.3 (EDH or DHE) and TLS 1.2 (ECDHE with DHE as a fallback).

c. Encryption at Rest

All sensitive information classified by Atticus Administration as PROTECTED or RESTRICTED including, but not limited to PII, PHI, credit card numbers, and passwords, must be encrypted at rest using Full Disk Encryption technology or Virtual Disk Encryption. When feasible, hardware-backed encryption must be utilized over software encryption.

Atticus Administration requires IT endpoints that could store or transmit sensitive data to utilize Full Disk Encryption or Azure Server-Side Encryption (SSE).

In addition, Atticus Administration may implement File-based encryption for sensitive files at-rest on a per-client basis to provide additional data protection.

8. Key Management Standards

Atticus Administration utilizes Azure Key Vault with HSM-backed (hardware security module) Customer Managed Keys (CMK) for Server-side Encryption (SSE) in accordance with Microsoft's published guidance for secure best practices. Accordingly, all data on the servers is encrypted using 256-bit AES and is FIPS 140-2 compliant.

Atticus Administration partners with a Managed Service Provider (MSP) to restrict access to the Azure Key Vault so that only the small number of staff requiring access for job duty or function with Infrastructure Management and Configuration are given access to keys.

9. Data Backup and Recovery

Atticus Administration partners with a Managed Service Provider (MSP) for administration of automated data backups for critical servers and IT infrastructure.

10. Breaches in Security and Privacy Violation

Breaches in security, whether actual or suspected, must be reported immediately to the Incident Response Manager. The Incident Response Manager and executive management will execute Atticus Administration's Incident Response Plan to assess the breach for scope and severity and take appropriate action to mitigate and/or eliminate.

If the Incident Response Manager and/or executive management is made aware a User has failed to comply with Atticus' Data Security & Information Privacy Policy, they will identify and apply appropriate consequences to the User. The consequences may be as severe as termination of employment or termination of contract and/or further legal action. If there is a concern about a breach involving the Incident Response Manager, concerns should be immediately directed to the Chief Operating Officer.

If there is a data breach with a vendor/contractor, the contractor must comply with all applicable state and federal laws that require the notification to individuals (or other affected parties) in the event of unauthorized release of sensitive personal information or confidential data. Contractors must notify Atticus within 24 hours of the incident. Atticus reserves all rights to act under the terms of any applicable contract, including indemnification and/or termination of the contract.

V. Enforcement

Any User found to have violated this policy may be subject to disciplinary action. Such action may be as severe as termination of employment or termination of contract and/or further legal action.

VI. Distribution

This policy is to be distributed to all users.

VII. Policy History

Version	Date	Description	Approved By
8.0	11/13/2024	Policy Update	Joel Prest – Director of Information Technology James Hardy – CFO/COO
7.0	10/12/2023	Policy Review	Joel Prest – Director of Information Technology James Hardy – CFO/COO
6.0	10/12/2022	Policy Review	Joel Prest – Director of Information Technology James Hardy – CFO/COO
5.0	10/15/2021	Policy Review	Joel Prest – Director of Information Technology James Hardy – CFO/COO
4.0	11/10/2020	Policy Review	Joel Prest – Director of Information Technology James Hardy – CFO/COO
3.0	11/14/2019	Policy Review	Joel Prest – Director of Information Technology James Hardy – CFO/COO
2.0	11/5/2018	Policy Review	Joel Prest – Director of Information Technology James Hardy – CFO/COO
1.0	8/1/2017	Initial policy release	Mai Vang – Director of Operations James Hardy – CFO/COO